

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY MAY 18, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1278**

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### Introduced by Assembly Member Hill

February 18, 2011

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*An act to amend Sections 17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8, 23634, and 23646 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to add Section 1286.5 to the Health and Safety Code, relating to health facilities.*

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1278, as amended, Hill. ~~Personal income and corporation taxes; hiring credits; enterprise zones, LAMBRAs, manufacturing enhancement areas, and targeted tax areas; relocation.~~ *Health facilities: smoking.*

*Existing law establishes various programs for the prevention of disease and the promotion of health to be administered by the State Department of Public Health, including, but not limited to, a program for the licensing and regulation of health facilities. A violation of these provisions is a misdemeanor.*

*Existing law, with certain exceptions, prohibits smoking in patient care areas, waiting rooms, and visiting rooms of specified health facilities, including general acute care hospitals. A violation of these*

provisions is an infraction. Existing law generally prohibits smoking in the workplace.

This bill would, for a general acute care hospital, instead, prohibit smoking in all areas of the hospital and throughout the entire hospital campus, as specified. The bill would require general acute care hospitals to post specified signs and train employees on the smoking policy.

The bill would specify that the smoking prohibition does not prevent smoking on a hospital campus by a patient if the treating physician determines that the patient's treatment will be substantially impaired by the denial to the patient of the use of tobacco and the physician enters a written order permitting the use of tobacco by that patient.

The bill would also specify that violation of these provisions does not constitute either a misdemeanor or an infraction.

~~The Personal Income Tax Law and the Corporation Tax Law allow credits for hiring employees in an enterprise zone, a LAMBRA, a manufacturing enhancement area, and a targeted tax area.~~

~~This bill would limit the application of these credits, for a taxpayer that relocates to an enterprise zone, a LAMBRA, a manufacturing enhancement area, or a targeted tax area from within the state, to only the qualified wages for each net increase of qualified employees, as specified, and only if the taxpayer offers each employee from the previous location or locations a written bona fide offer of employment in the new location.~~

~~This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.~~

~~This bill would take effect immediately as a tax levy.~~

Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1286.5 is added to the Health and Safety
- 2     Code, to read:
- 3     1286.5. (a) It is the intent of the Legislature to encourage and
- 4     assist smokers to quit tobacco use and to reduce the associated
- 5     risks of tobacco smoke to hospital patients, staff, and visitors.
- 6     (b) Notwithstanding Section 1286, and except as provided in
- 7     subdivision (c), on and after March 1, 2013, smoking shall be

1 *prohibited in all areas of a general acute care hospital and*  
2 *throughout the entire hospital campus, including, but not limited*  
3 *to, buildings, parking areas, plazas, vehicles, underground*  
4 *passages, and sidewalks, unless there is a government-mandated*  
5 *exception. Public thoroughfares and sidewalks adjacent to the*  
6 *general acute care hospital but not owned by the hospital are not*  
7 *subject to this section.*

8 *(c) (1) This section shall not prevent smoking on a hospital*  
9 *campus by a patient if the treating physician determines that the*  
10 *patient's treatment will be substantially impaired by the denial to*  
11 *the patient of the use of tobacco and the physician enters a written*  
12 *order permitting the use of tobacco by that patient.*

13 *(2) This section shall not apply to property owned or leased by*  
14 *the hospital that is distinct from, and not part of, the principal*  
15 *medical campus if the property is used for nonhealth care-related*  
16 *purposes.*

17 *(d) A general acute care hospital shall post signs stating that*  
18 *smoking is prohibited on the entire hospital campus at building*  
19 *entrances and in other conspicuous locations. New employees*  
20 *shall be advised of the nonsmoking policy during orientation and*  
21 *current employees shall be informed of the policy at least 60 days*  
22 *prior to implementation.*

23 *(e) A general acute care hospital may provide interested*  
24 *patients, visitors, and staff with information on, or refer them to,*  
25 *smoking cessation services.*

26 *(f) A city, county, or city and county may adopt and enforce*  
27 *additional smoking and tobacco control ordinances, regulations,*  
28 *or policies that are no less stringent than the applicable standards*  
29 *under this section.*

30 *(g) A violation of this section shall not be subject to Section*  
31 *1290.*

32 ~~SECTION 1. Section 17053.34 of the Revenue and Taxation~~  
33 ~~Code is amended to read:~~

34 ~~17053.34. (a) For each taxable year beginning on or after~~  
35 ~~January 1, 1998, there shall be allowed a credit against the "net~~  
36 ~~tax" (as defined in Section 17039) to a qualified taxpayer who~~  
37 ~~employs a qualified employee in a targeted tax area during the~~  
38 ~~taxable year. The credit shall be equal to the sum of each of the~~  
39 ~~following:~~

1 ~~(1) Fifty percent of qualified wages in the first year of~~  
2 ~~employment.~~

3 ~~(2) Forty percent of qualified wages in the second year of~~  
4 ~~employment.~~

5 ~~(3) Thirty percent of qualified wages in the third year of~~  
6 ~~employment.~~

7 ~~(4) Twenty percent of qualified wages in the fourth year of~~  
8 ~~employment.~~

9 ~~(5) Ten percent of qualified wages in the fifth year of~~  
10 ~~employment.~~

11 ~~(b) For purposes of this section:~~

12 ~~(1) “Qualified wages” means:~~

13 ~~(A) That portion of wages paid or incurred by the qualified~~  
14 ~~taxpayer during the taxable year to qualified employees that does~~  
15 ~~not exceed 150 percent of the minimum wage.~~

16 ~~(B) Wages received during the 60-month period beginning with~~  
17 ~~the first day the employee commences employment with the~~  
18 ~~qualified taxpayer. Reemployment in connection with any increase,~~  
19 ~~including a regularly occurring seasonal increase, in the trade or~~  
20 ~~business operations of the qualified taxpayer does not constitute~~  
21 ~~commencement of employment for purposes of this section.~~

22 ~~(C) Qualified wages do not include any wages paid or incurred~~  
23 ~~by the qualified taxpayer on or after the targeted tax area expiration~~  
24 ~~date. However, wages paid or incurred with respect to qualified~~  
25 ~~employees who are employed by the qualified taxpayer within the~~  
26 ~~targeted tax area within the 60-month period prior to the targeted~~  
27 ~~tax area expiration date shall continue to qualify for the credit~~  
28 ~~under this section after the targeted tax area expiration date, in~~  
29 ~~accordance with all provisions of this section applied as if the~~  
30 ~~targeted tax area designation were still in existence and binding.~~

31 ~~(2) “Minimum wage” means the wage established by the~~  
32 ~~Industrial Welfare Commission as provided for in Chapter 1~~  
33 ~~(commencing with Section 1171) of Part 4 of Division 2 of the~~  
34 ~~Labor Code.~~

35 ~~(3) “Targeted tax area expiration date” means the date the~~  
36 ~~targeted tax area designation expires, is revoked, is no longer~~  
37 ~~binding, or becomes inoperative.~~

38 ~~(4) (A) “Qualified employee” means an individual who meets~~  
39 ~~all of the following requirements:~~

1 ~~(i) At least 90 percent of his or her services for the qualified~~  
2 ~~taxpayer during the taxable year are directly related to the conduct~~  
3 ~~of the qualified taxpayer's trade or business located in a targeted~~  
4 ~~tax area.~~

5 ~~(ii) Performs at least 50 percent of his or her services for the~~  
6 ~~qualified taxpayer during the taxable year in a targeted tax area.~~

7 ~~(iii) Is hired by the qualified taxpayer after the date of original~~  
8 ~~designation of the area in which services were performed as a~~  
9 ~~targeted tax area.~~

10 ~~(iv) Is any of the following:~~

11 ~~(I) Immediately preceding the qualified employee's~~  
12 ~~commencement of employment with the qualified taxpayer, was~~  
13 ~~a person eligible for services under the federal Job Training~~  
14 ~~Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,~~  
15 ~~who is receiving, or is eligible to receive, subsidized employment,~~  
16 ~~training, or services funded by the federal Job Training Partnership~~  
17 ~~Act, or its successor.~~

18 ~~(II) Immediately preceding the qualified employee's~~  
19 ~~commencement of employment with the qualified taxpayer, was~~  
20 ~~a person eligible to be a voluntary or mandatory registrant under~~  
21 ~~the Greater Avenues for Independence Act of 1985 (GAIN)~~  
22 ~~provided for pursuant to Article 3.2 (commencing with Section~~  
23 ~~11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and~~  
24 ~~Institutions Code, or its successor.~~

25 ~~(III) Immediately preceding the qualified employee's~~  
26 ~~commencement of employment with the qualified taxpayer, was~~  
27 ~~an economically disadvantaged individual 14 years of age or older.~~

28 ~~(IV) Immediately preceding the qualified employee's~~  
29 ~~commencement of employment with the qualified taxpayer, was~~  
30 ~~a dislocated worker who meets any of the following:~~

31 ~~(ia) Has been terminated or laid off or who has received a notice~~  
32 ~~of termination or layoff from employment, is eligible for or has~~  
33 ~~exhausted entitlement to unemployment insurance benefits, and~~  
34 ~~is unlikely to return to his or her previous industry or occupation.~~

35 ~~(ib) Has been terminated or has received a notice of termination~~  
36 ~~of employment as a result of any permanent closure or any~~  
37 ~~substantial layoff at a plant, facility, or enterprise, including an~~  
38 ~~individual who has not received written notification but whose~~  
39 ~~employer has made a public announcement of the closure or layoff.~~

1     ~~(ic) Is long-term unemployed and has limited opportunities for~~  
2     ~~employment or reemployment in the same or a similar occupation~~  
3     ~~in the area in which the individual resides, including an individual~~  
4     ~~55 years of age or older who may have substantial barriers to~~  
5     ~~employment by reason of age.~~

6     ~~(id) Was self-employed (including farmers and ranchers) and~~  
7     ~~is unemployed as a result of general economic conditions in the~~  
8     ~~community in which he or she resides or because of natural~~  
9     ~~disasters.~~

10    ~~(ie) Was a civilian employee of the Department of Defense~~  
11    ~~employed at a military installation being closed or realigned under~~  
12    ~~the Defense Base Closure and Realignment Act of 1990.~~

13    ~~(if) Was an active member of the Armed Forces or National~~  
14    ~~Guard as of September 30, 1990, and was either involuntarily~~  
15    ~~separated or separated pursuant to a special benefits program.~~

16    ~~(ig) Is a seasonal or migrant worker who experiences chronic~~  
17    ~~seasonal unemployment and underemployment in the agriculture~~  
18    ~~industry, aggravated by continual advancements in technology and~~  
19    ~~mechanization.~~

20    ~~(ih) Has been terminated or laid off, or has received a notice of~~  
21    ~~termination or layoff, as a consequence of compliance with the~~  
22    ~~Clean Air Act.~~

23    ~~(V) Immediately preceding the qualified employee's~~  
24    ~~commencement of employment with the qualified taxpayer, was~~  
25    ~~a disabled individual who is eligible for or enrolled in, or has~~  
26    ~~completed a state rehabilitation plan or is a service-connected~~  
27    ~~disabled veteran, veteran of the Vietnam era, or veteran who is~~  
28    ~~recently separated from military service.~~

29    ~~(VI) Immediately preceding the qualified employee's~~  
30    ~~commencement of employment with the qualified taxpayer, was~~  
31    ~~an ex-offender. An individual shall be treated as convicted if he~~  
32    ~~or she was placed on probation by a state court without a finding~~  
33    ~~of guilty.~~

34    ~~(VII) Immediately preceding the qualified employee's~~  
35    ~~commencement of employment with the qualified taxpayer, was~~  
36    ~~a person eligible for or a recipient of any of the following:~~

37    ~~(ia) Federal Supplemental Security Income benefits.~~

38    ~~(ib) Aid to Families with Dependent Children.~~

39    ~~(ic) Food stamps.~~

40    ~~(id) State and local general assistance.~~

1     (VIII) Immediately preceding the qualified employee's  
2 commencement of employment with the qualified taxpayer, was  
3 a member of a federally recognized Indian tribe, band, or other  
4 group of Native American descent.

5     (IX) Immediately preceding the qualified employee's  
6 commencement of employment with the qualified taxpayer, was  
7 a resident of a targeted tax area.

8     (X) Immediately preceding the qualified employee's  
9 commencement of employment with the taxpayer, was a member  
10 of a targeted group as defined in Section 51(d) of the Internal  
11 Revenue Code, or its successor.

12     (B) Priority for employment shall be provided to an individual  
13 who is enrolled in a qualified program under the federal Job  
14 Training Partnership Act or the Greater Avenues for Independence  
15 Act of 1985 or who is eligible as a member of a targeted group  
16 under the Work Opportunity Tax Credit (Section 51 of the Internal  
17 Revenue Code), or its successor.

18     (5) (A) "Qualified taxpayer" means a person or entity that meets  
19 both of the following:

20     (i) Is engaged in a trade or business within a targeted tax area  
21 designated pursuant to Chapter 12.93 (commencing with Section  
22 7097) of Division 7 of Title 1 of the Government Code.

23     (ii) Is engaged in those lines of business described in Codes  
24 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
25 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
26 of the Standard Industrial Classification (SIC) Manual published  
27 by the United States Office of Management and Budget, 1987  
28 edition.

29     (B) In the case of any passthrough entity, the determination of  
30 whether a taxpayer is a qualified taxpayer under this section shall  
31 be made at the entity level and any credit under this section or  
32 Section 23634 shall be allowed to the passthrough entity and passed  
33 through to the partners or shareholders in accordance with  
34 applicable provisions of this part or Part 11 (commencing with  
35 Section 23001). For purposes of this subdivision, the term  
36 "passthrough entity" means any partnership or S corporation.

37     (6) "Seasonal employment" means employment by a qualified  
38 taxpayer that has regular and predictable substantial reductions in  
39 trade or business operations.

~~(e) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.~~

~~(d) The qualified taxpayer shall do both of the following:~~

~~(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the targeted tax area, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates pursuant to subdivision (g) of Section 7097 of the Government Code, and shall develop forms for this purpose.~~

~~(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.~~

~~(e) (1) For purposes of this section:~~

~~(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.~~

~~(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.~~

~~(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23634, shall apply with respect to determining employment.~~

~~(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.~~



1     ~~(f) (1) (A) If the employment, other than seasonal employment,~~  
2 ~~of any qualified employee, with respect to whom qualified wages~~  
3 ~~are taken into account under subdivision (a) is terminated by the~~  
4 ~~qualified taxpayer at any time during the first 270 days of that~~  
5 ~~employment (whether or not consecutive) or before the close of~~  
6 ~~the 270th calendar day after the day in which that employee~~  
7 ~~completes 90 days of employment with the qualified taxpayer, the~~  
8 ~~tax imposed by this part for the taxable year in which that~~  
9 ~~employment is terminated shall be increased by an amount equal~~  
10 ~~to the credit allowed under subdivision (a) for that taxable year~~  
11 ~~and all prior taxable years attributable to qualified wages paid or~~  
12 ~~incurred with respect to that employee.~~

13     ~~(B) If the seasonal employment of any qualified employee, with~~  
14 ~~respect to whom qualified wages are taken into account under~~  
15 ~~subdivision (a) is not continued by the qualified taxpayer for a~~  
16 ~~period of 270 days of employment during the 60-month period~~  
17 ~~beginning with the day the qualified employee commences seasonal~~  
18 ~~employment with the qualified taxpayer, the tax imposed by this~~  
19 ~~part, for the taxable year that includes the 60th month following~~  
20 ~~the month in which the qualified employee commences seasonal~~  
21 ~~employment with the qualified taxpayer, shall be increased by an~~  
22 ~~amount equal to the credit allowed under subdivision (a) for that~~  
23 ~~taxable year and all prior taxable years attributable to qualified~~  
24 ~~wages paid or incurred with respect to that qualified employee.~~

25     ~~(2) (A) Subparagraph (A) of paragraph (1) shall not apply to~~  
26 ~~any of the following:~~

27     ~~(i) A termination of employment of a qualified employee who~~  
28 ~~voluntarily leaves the employment of the qualified taxpayer.~~

29     ~~(ii) A termination of employment of a qualified employee who,~~  
30 ~~before the close of the period referred to in subparagraph (A) of~~  
31 ~~paragraph (1), becomes disabled and unable to perform the services~~  
32 ~~of that employment, unless that disability is removed before the~~  
33 ~~close of that period and the qualified taxpayer fails to offer~~  
34 ~~reemployment to that employee.~~

35     ~~(iii) A termination of employment of a qualified employee, if~~  
36 ~~it is determined that the termination was due to the misconduct (as~~  
37 ~~defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of~~  
38 ~~the California Code of Regulations) of that employee.~~

1     ~~(iv) A termination of employment of a qualified employee due~~  
2     ~~to a substantial reduction in the trade or business operations of the~~  
3     ~~qualified taxpayer.~~

4     ~~(v) A termination of employment of a qualified employee, if~~  
5     ~~that employee is replaced by other qualified employees so as to~~  
6     ~~create a net increase in both the number of employees and the~~  
7     ~~hours of employment.~~

8     ~~(B) Subparagraph (B) of paragraph (1) shall not apply to any~~  
9     ~~of the following:~~

10    ~~(i) A failure to continue the seasonal employment of a qualified~~  
11    ~~employee who voluntarily fails to return to the seasonal~~  
12    ~~employment of the qualified taxpayer.~~

13    ~~(ii) A failure to continue the seasonal employment of a qualified~~  
14    ~~employee who, before the close of the period referred to in~~  
15    ~~subparagraph (B) of paragraph (1), becomes disabled and unable~~  
16    ~~to perform the services of that seasonal employment, unless that~~  
17    ~~disability is removed before the close of that period and the~~  
18    ~~qualified taxpayer fails to offer seasonal employment to that~~  
19    ~~qualified employee.~~

20    ~~(iii) A failure to continue the seasonal employment of a qualified~~  
21    ~~employee, if it is determined that the failure to continue the~~  
22    ~~seasonal employment was due to the misconduct (as defined in~~  
23    ~~Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California~~  
24    ~~Code of Regulations) of that qualified employee.~~

25    ~~(iv) A failure to continue seasonal employment of a qualified~~  
26    ~~employee due to a substantial reduction in the regular seasonal~~  
27    ~~trade or business operations of the qualified taxpayer.~~

28    ~~(v) A failure to continue the seasonal employment of a qualified~~  
29    ~~employee, if that qualified employee is replaced by other qualified~~  
30    ~~employees so as to create a net increase in both the number of~~  
31    ~~seasonal employees and the hours of seasonal employment.~~

32    ~~(C) For purposes of paragraph (1), the employment relationship~~  
33    ~~between the qualified taxpayer and a qualified employee shall not~~  
34    ~~be treated as terminated by reason of a mere change in the form~~  
35    ~~of conducting the trade or business of the qualified taxpayer, if the~~  
36    ~~qualified employee continues to be employed in that trade or~~  
37    ~~business and the qualified taxpayer retains a substantial interest~~  
38    ~~in that trade or business.~~

1     ~~(3) Any increase in tax under paragraph (1) shall not be treated~~  
2     ~~as tax imposed by this part for purposes of determining the amount~~  
3     ~~of any credit allowable under this part.~~

4     ~~(g) In the case of an estate or trust, both of the following apply:~~

5     ~~(1) The qualified wages for any taxable year shall be apportioned~~  
6     ~~between the estate or trust and the beneficiaries on the basis of the~~  
7     ~~income of the estate or trust allocable to each.~~

8     ~~(2) Any beneficiary to whom any qualified wages have been~~  
9     ~~apportioned under paragraph (1) shall be treated, for purposes of~~  
10    ~~this part, as the employer with respect to those wages.~~

11    ~~(h) For purposes of this section, “targeted tax area” means an~~  
12    ~~area designated pursuant to Chapter 12.93 (commencing with~~  
13    ~~Section 7097) of Division 7 of Title 1 of the Government Code.~~

14    ~~(i) In the case where the credit otherwise allowed under this~~  
15    ~~section exceeds the “net tax” for the taxable year, that portion of~~  
16    ~~the credit that exceeds the “net tax” may be carried over and added~~  
17    ~~to the credit, if any, in succeeding taxable years, until the credit is~~  
18    ~~exhausted. The credit shall be applied first to the earliest taxable~~  
19    ~~years possible.~~

20    ~~(j) (1) The amount of the credit otherwise allowed under this~~  
21    ~~section and Section 17053.33, including any credit carryover from~~  
22    ~~prior years, that may reduce the “net tax” for the taxable year shall~~  
23    ~~not exceed the amount of tax that would be imposed on the~~  
24    ~~qualified taxpayer’s business income attributable to the targeted~~  
25    ~~tax area determined as if that attributable income represented all~~  
26    ~~of the income of the qualified taxpayer subject to tax under this~~  
27    ~~part.~~

28    ~~(2) Attributable income shall be that portion of the taxpayer’s~~  
29    ~~California source business income that is apportioned to the~~  
30    ~~targeted tax area. For that purpose, the taxpayer’s business income~~  
31    ~~attributable to sources in this state first shall be determined in~~  
32    ~~accordance with Chapter 17 (commencing with Section 25101) of~~  
33    ~~Part 11. That business income shall be further apportioned to the~~  
34    ~~targeted tax area in accordance with Article 2 (commencing with~~  
35    ~~Section 25120) of Chapter 17 of Part 11, modified for purposes~~  
36    ~~of this section in accordance with paragraph (3).~~

37    ~~(3) Business income shall be apportioned to the targeted tax~~  
38    ~~area by multiplying the total California business income of the~~  
39    ~~taxpayer by a fraction, the numerator of which is the property~~

1 factor plus the payroll factor, and the denominator of which is two.

2 For purposes of this paragraph:

3 (A) The property factor is a fraction, the numerator of which is  
4 the average value of the taxpayer's real and tangible personal  
5 property owned or rented and used in the targeted tax area during  
6 the taxable year, and the denominator of which is the average value  
7 of all the taxpayer's real and tangible personal property owned or  
8 rented and used in this state during the taxable year.

9 (B) The payroll factor is a fraction, the numerator of which is  
10 the total amount paid by the taxpayer in the targeted tax area during  
11 the taxable year for compensation, and the denominator of which  
12 is the total compensation paid by the taxpayer in this state during  
13 the taxable year.

14 (4) The portion of any credit remaining, if any, after application  
15 of this subdivision, shall be carried over to succeeding taxable  
16 years, as if it were an amount exceeding the "net tax" for the  
17 taxable year, as provided in subdivision (h).

18 (5) In the event that a credit carryover is allowable under  
19 subdivision (h) for any taxable year after the targeted tax area  
20 expiration date, the targeted tax area shall be deemed to remain in  
21 existence for purposes of computing the limitation specified in  
22 this subdivision.

23 (k) (1) Notwithstanding subdivision (a), if a qualified taxpayer  
24 relocated to a targeted tax area from within the state during any  
25 taxable year beginning on or after January 1, 2011, the qualified  
26 taxpayer shall be allowed a credit for the taxable year only with  
27 respect to qualified wages paid for each net increase in qualified  
28 employees, and only if the qualified taxpayer makes each employee  
29 at the previous location or locations a written bona fide offer of  
30 employment at the new location.

31 (2) The net increase in employees of a qualified taxpayer shall  
32 be determined as provided by this subdivision:

33 (A) The net increase in employees shall be determined by  
34 subtracting from the amount determined in subparagraph (C) the  
35 amount determined in subparagraph (B):

36 (B) The total number of employees employed in the state in the  
37 preceding taxable year by the qualified taxpayer and by any trade  
38 or business acquired by the qualified taxpayer during the current  
39 taxable year.

1     ~~(C) The total number of employees employed in the state in the~~  
2     ~~current taxable year by the qualified taxpayer and by any trade or~~  
3     ~~business acquired during the current taxable year.~~

4     ~~SEC. 2. Section 17053.46 of the Revenue and Taxation Code~~  
5     ~~is amended to read:~~

6     ~~17053.46. (a) For each taxable year beginning on or after~~  
7     ~~January 1, 1995, there shall be allowed as a credit against the “net~~  
8     ~~tax” (as defined in Section 17039) to a qualified taxpayer for hiring~~  
9     ~~a qualified disadvantaged individual or a qualified displaced~~  
10    ~~employee during the taxable year for employment in the LAMBRA.~~  
11    ~~The credit shall be equal to the sum of each of the following:~~

12    ~~(1) Fifty percent of the qualified wages in the first year of~~  
13    ~~employment.~~

14    ~~(2) Forty percent of the qualified wages in the second year of~~  
15    ~~employment.~~

16    ~~(3) Thirty percent of the qualified wages in the third year of~~  
17    ~~employment.~~

18    ~~(4) Twenty percent of the qualified wages in the fourth year of~~  
19    ~~employment.~~

20    ~~(5) Ten percent of the qualified wages in the fifth year of~~  
21    ~~employment.~~

22    ~~(b) For purposes of this section:~~

23    ~~(1) “Qualified wages” means:~~

24    ~~(A) That portion of wages paid or incurred by the employer~~  
25    ~~during the taxable year to qualified disadvantaged individuals or~~  
26    ~~qualified displaced employees that does not exceed 150 percent~~  
27    ~~of the minimum wage.~~

28    ~~(B) The total amount of qualified wages which may be taken~~  
29    ~~into account for purposes of claiming the credit allowed under this~~  
30    ~~section shall not exceed two million dollars (\$2,000,000) per~~  
31    ~~taxable year.~~

32    ~~(C) Wages received during the 60-month period beginning with~~  
33    ~~the first day the individual commences employment with the~~  
34    ~~taxpayer. Reemployment in connection with any increase, including~~  
35    ~~a regularly occurring seasonal increase, in the trade or business~~  
36    ~~operations of the qualified taxpayer does not constitute~~  
37    ~~commencement of employment for purposes of this section.~~

38    ~~(D) Qualified wages do not include any wages paid or incurred~~  
39    ~~by the qualified taxpayer on or after the LAMBRA expiration date.~~  
40    ~~However, wages paid or incurred with respect to qualified~~

~~1 disadvantaged individuals or qualified displaced employees who  
2 are employed by the qualified taxpayer within the LAMBRA within  
3 the 60-month period prior to the LAMBRA expiration date shall  
4 continue to qualify for the credit under this section after the  
5 LAMBRA expiration date, in accordance with all provisions of  
6 this section applied as if the LAMBRA designation were still in  
7 existence and binding.~~

~~8 (2) “Minimum wage” means the wage established by the  
9 Industrial Welfare Commission as provided for in Chapter 1  
10 (commencing with Section 1171) of Part 4 of Division 2 of the  
11 Labor Code.~~

~~12 (3) “LAMBRA” means a local agency military base recovery  
13 area designated in accordance with Section 7114 of the Government  
14 Code.~~

~~15 (4) “Qualified disadvantaged individual” means an individual  
16 who satisfies all of the following requirements:~~

~~17 (A) (i) At least 90 percent of whose services for the taxpayer  
18 during the taxable year are directly related to the conduct of the  
19 taxpayer’s trade or business located in a LAMBRA.~~

~~20 (ii) Who performs at least 50 percent of his or her services for  
21 the taxpayer during the taxable year in the LAMBRA.~~

~~22 (B) Who is hired by the employer after the designation of the  
23 area as a LAMBRA in which the individual’s services were  
24 primarily performed.~~

~~25 (C) Who is any of the following immediately preceding the  
26 individual’s commencement of employment with the taxpayer:~~

~~27 (i) An individual who has been determined eligible for services  
28 under the federal Job Training Partnership Act (29 U.S.C. Sec.  
29 1501 et seq.).~~

~~30 (ii) Any voluntary or mandatory registrant under the Greater  
31 Avenues for Independence Act of 1985 as provided pursuant to  
32 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part  
33 3 of Division 9 of the Welfare and Institutions Code.~~

~~34 (iii) An economically disadvantaged individual age 16 years or  
35 older.~~

~~36 (iv) A dislocated worker who meets any of the following  
37 conditions:~~

~~38 (I) Has been terminated or laid off or who has received a notice  
39 of termination or layoff from employment, is eligible for or has~~

1 exhausted entitlement to unemployment insurance benefits, and  
2 is unlikely to return to his or her previous industry or occupation.

3 (II) ~~Has been terminated or has received a notice of termination~~  
4 ~~of employment as a result of any permanent closure or any~~  
5 ~~substantial layoff at a plant, facility, or enterprise, including an~~  
6 ~~individual who has not received written notification but whose~~  
7 ~~employer has made a public announcement of the closure or layoff.~~

8 (III) ~~Is long-term unemployed and has limited opportunities for~~  
9 ~~employment or reemployment in the same or a similar occupation~~  
10 ~~in the area in which the individual resides, including an individual~~  
11 ~~55 years of age or older who may have substantial barriers to~~  
12 ~~employment by reason of age.~~

13 (IV) ~~Was self-employed (including farmers and ranchers) and~~  
14 ~~is unemployed as a result of general economic conditions in the~~  
15 ~~community in which he or she resides or because of natural~~  
16 ~~disasters.~~

17 (V) ~~Was a civilian employee of the Department of Defense~~  
18 ~~employed at a military installation being closed or realigned under~~  
19 ~~the Defense Base Closure and Realignment Act of 1990.~~

20 (VI) ~~Was an active member of the Armed Forces or National~~  
21 ~~Guard as of September 30, 1990, and was either involuntarily~~  
22 ~~separated or separated pursuant to a special benefits program.~~

23 (VII) ~~Experiences chronic seasonal unemployment and~~  
24 ~~underemployment in the agriculture industry, aggravated by~~  
25 ~~continual advancements in technology and mechanization.~~

26 (VIII) ~~Has been terminated or laid off or has received a notice~~  
27 ~~of termination or layoff as a consequence of compliance with the~~  
28 ~~Clean Air Act.~~

29 (v) ~~An individual who is enrolled in or has completed a state~~  
30 ~~rehabilitation plan or is a service-connected disabled veteran,~~  
31 ~~veteran of the Vietnam era, or veteran who is recently separated~~  
32 ~~from military service.~~

33 (vi) ~~An ex-offender. An individual shall be treated as convicted~~  
34 ~~if he or she was placed on probation by a state court without a~~  
35 ~~finding of guilty.~~

36 (vii) ~~A recipient of:~~

37 (I) ~~Federal Supplemental Security Income benefits.~~

38 (II) ~~Aid to Families with Dependent Children.~~

39 (III) ~~Food stamps.~~

40 (IV) ~~State and local general assistance.~~

1 (viii) Is a member of a federally recognized Indian tribe, band,  
2 or other group of Native American descent.

3 (5) ~~“Qualified taxpayer” means a taxpayer or partnership that~~  
4 ~~conducts a trade or business within a LAMBRA and, for the first~~  
5 ~~two taxable years, has a net increase in jobs (defined as 2,000 paid~~  
6 ~~hours per employee per year) of one or more employees in the~~  
7 ~~LAMBRA.~~

8 (A) ~~The net increase in the number of jobs shall be determined~~  
9 ~~by subtracting the total number of full-time employees (defined~~  
10 ~~as 2,000 paid hours per employee per year) the taxpayer employed~~  
11 ~~in this state in the taxable year prior to commencing business~~  
12 ~~operations in the LAMBRA from the total number of full-time~~  
13 ~~employees the taxpayer employed in this state during the second~~  
14 ~~taxable year after commencing business operations in the~~  
15 ~~LAMBRA. For taxpayers who commence doing business in this~~  
16 ~~state with their LAMBRA business operation, the number of~~  
17 ~~employees for the taxable year prior to commencing business~~  
18 ~~operations in the LAMBRA shall be zero. If the taxpayer has a net~~  
19 ~~increase in jobs in the state, the credit shall be allowed only if one~~  
20 ~~or more full-time employees is employed within the LAMBRA.~~

21 (B) ~~The total number of employees employed in the LAMBRA~~  
22 ~~shall equal the sum of both of the following:~~

23 (i) ~~The total number of hours worked in the LAMBRA for the~~  
24 ~~taxpayer by employees (not to exceed 2,000 hours per employee)~~  
25 ~~who are paid an hourly wage divided by 2,000.~~

26 (ii) ~~The total number of months worked in the LAMBRA for~~  
27 ~~the taxpayer by employees who are salaried employees divided~~  
28 ~~by 12.~~

29 (C) ~~In the case of a taxpayer who first commences doing~~  
30 ~~business in the LAMBRA during the taxable year, for purposes of~~  
31 ~~clauses (i) and (ii), respectively, of subparagraph (B), the divisors~~  
32 ~~“2,000” and “12” shall be multiplied by a fraction, the numerator~~  
33 ~~of which is the number of months of the taxable year that the~~  
34 ~~taxpayer was doing business in the LAMBRA and the denominator~~  
35 ~~of which is 12.~~

36 (6) ~~“Qualified displaced employee” means an individual who~~  
37 ~~satisfies all of the following requirements:~~

38 (A) ~~Any civilian or military employee of a base or former base~~  
39 ~~who has been displaced as a result of a federal base closure act.~~



1 ~~(B) (i) At least 90 percent of whose services for the taxpayer~~  
2 ~~during the taxable year are directly related to the conduct of the~~  
3 ~~taxpayer's trade or business located in a LAMBRA.~~

4 ~~(ii) Who performs at least 50 percent of his or her services for~~  
5 ~~the taxpayer during the taxable year in a LAMBRA.~~

6 ~~(C) Who is hired by the employer after the designation of the~~  
7 ~~area in which services were performed as a LAMBRA.~~

8 ~~(7) "Seasonal employment" means employment by a qualified~~  
9 ~~taxpayer that has regular and predictable substantial reductions in~~  
10 ~~trade or business operations.~~

11 ~~(8) "LAMBRA expiration date" means the date the LAMBRA~~  
12 ~~designation expires, is no longer binding, or becomes inoperative.~~

13 ~~(e) For qualified disadvantaged individuals or qualified displaced~~  
14 ~~employees hired on or after January 1, 2001, the taxpayer shall do~~  
15 ~~both of the following:~~

16 ~~(1) Obtain from the Employment Development Department, as~~  
17 ~~permitted by federal law, the local county or city Job Training~~  
18 ~~Partnership Act administrative entity, the local county GAIN office~~  
19 ~~or social services agency, or the local government administering~~  
20 ~~the LAMBRA, a certification that provides that a qualified~~  
21 ~~disadvantaged individual or qualified displaced employee meets~~  
22 ~~the eligibility requirements specified in subparagraph (C) of~~  
23 ~~paragraph (4) of subdivision (b) or subparagraph (A) of paragraph~~  
24 ~~(6) of subdivision (b). The Employment Development Department~~  
25 ~~may provide preliminary screening and referral to a certifying~~  
26 ~~agency. The Department of Housing and Community Development~~  
27 ~~shall develop regulations governing the issuance of certificates~~  
28 ~~pursuant to Section 7114.2 of the Government Code and shall~~  
29 ~~develop forms for this purpose.~~

30 ~~(2) Retain a copy of the certification and provide it upon request~~  
31 ~~to the Franchise Tax Board.~~

32 ~~(d) (1) For purposes of this section, both of the following apply:~~

33 ~~(A) All employees of trades or businesses that are under~~  
34 ~~common control shall be treated as employed by a single employer.~~

35 ~~(B) The credit (if any) allowable by this section with respect to~~  
36 ~~each trade or business shall be determined by reference to its~~  
37 ~~proportionate share of the qualified wages giving rise to the credit.~~

38 ~~The regulations prescribed under this paragraph shall be based~~  
39 ~~on principles similar to the principles that apply in the case of~~

1 ~~controlled groups of corporations as specified in subdivision (e)~~  
2 ~~of Section 23622.~~

3 ~~(2) If an employer acquires the major portion of a trade or~~  
4 ~~business of another employer (hereinafter in this paragraph referred~~  
5 ~~to as the “predecessor”) or the major portion of a separate unit of~~  
6 ~~a trade or business of a predecessor, then, for purposes of applying~~  
7 ~~this section (other than subdivision (d)) for any calendar year~~  
8 ~~ending after that acquisition, the employment relationship between~~  
9 ~~an employee and an employer shall not be treated as terminated if~~  
10 ~~the employee continues to be employed in that trade or business.~~

11 ~~(e) (1) (A) If the employment, other than seasonal employment,~~  
12 ~~of any employee, with respect to whom qualified wages are taken~~  
13 ~~into account under subdivision (a) is terminated by the taxpayer~~  
14 ~~at any time during the first 270 days of that employment (whether~~  
15 ~~or not consecutive) or before the close of the 270th calendar day~~  
16 ~~after the day in which that employee completes 90 days of~~  
17 ~~employment with the taxpayer, the tax imposed by this part for~~  
18 ~~the taxable year in which that employment is terminated shall be~~  
19 ~~increased by an amount (determined under those regulations) equal~~  
20 ~~to the credit allowed under subdivision (a) for that taxable year~~  
21 ~~and all prior taxable years attributable to qualified wages paid or~~  
22 ~~incurred with respect to that employee.~~

23 ~~(B) If the seasonal employment of any qualified disadvantaged~~  
24 ~~individual, with respect to whom qualified wages are taken into~~  
25 ~~account under subdivision (a) is not continued by the qualified~~  
26 ~~taxpayer for a period of 270 days of employment during the~~  
27 ~~60-month period beginning with the day the qualified~~  
28 ~~disadvantaged individual commences seasonal employment with~~  
29 ~~the qualified taxpayer, the tax imposed by this part, for the taxable~~  
30 ~~year that includes the 60th month following the month in which~~  
31 ~~the qualified disadvantaged individual commences seasonal~~  
32 ~~employment with the qualified taxpayer, shall be increased by an~~  
33 ~~amount equal to the credit allowed under subdivision (a) for that~~  
34 ~~taxable year and all prior taxable years attributable to qualified~~  
35 ~~wages paid or incurred with respect to that qualified disadvantaged~~  
36 ~~individual.~~

37 ~~(2) (A) Subparagraph (A) of paragraph (1) shall not apply to~~  
38 ~~any of the following:~~

39 ~~(i) A termination of employment of an employee who voluntarily~~  
40 ~~leaves the employment of the taxpayer.~~

1     (ii) ~~A termination of employment of an individual who, before~~  
2 ~~the close of the period referred to in subparagraph (A) of paragraph~~  
3 ~~(1), becomes disabled to perform the services of that employment,~~  
4 ~~unless that disability is removed before the close of that period~~  
5 ~~and the taxpayer fails to offer reemployment to that individual.~~

6     (iii) ~~A termination of employment of an individual, if it is~~  
7 ~~determined that the termination was due to the misconduct (as~~  
8 ~~defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of~~  
9 ~~the California Code of Regulations) of that individual.~~

10    (iv) ~~A termination of employment of an individual due to a~~  
11 ~~substantial reduction in the trade or business operations of the~~  
12 ~~taxpayer.~~

13    (v) ~~A termination of employment of an individual, if that~~  
14 ~~individual is replaced by other qualified employees so as to create~~  
15 ~~a net increase in both the number of employees and the hours of~~  
16 ~~employment.~~

17    (B) ~~Subparagraph (B) of paragraph (1) shall not apply to any~~  
18 ~~of the following:~~

19    (i) ~~A failure to continue the seasonal employment of a qualified~~  
20 ~~disadvantaged individual who voluntarily fails to return to the~~  
21 ~~seasonal employment of the qualified taxpayer.~~

22    (ii) ~~A failure to continue the seasonal employment of a qualified~~  
23 ~~disadvantaged individual who, before the close of the period~~  
24 ~~referred to in subparagraph (B) of paragraph (1), becomes disabled~~  
25 ~~and unable to perform the services of that seasonal employment,~~  
26 ~~unless that disability is removed before the close of that period~~  
27 ~~and the qualified taxpayer fails to offer seasonal employment to~~  
28 ~~that individual.~~

29    (iii) ~~A failure to continue the seasonal employment of a qualified~~  
30 ~~disadvantaged individual, if it is determined that the failure to~~  
31 ~~continue the seasonal employment was due to the misconduct (as~~  
32 ~~defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of~~  
33 ~~the California Code of Regulations) of that qualified disadvantaged~~  
34 ~~individual.~~

35    (iv) ~~A failure to continue seasonal employment of a qualified~~  
36 ~~disadvantaged individual due to a substantial reduction in the~~  
37 ~~regular seasonal trade or business operations of the qualified~~  
38 ~~taxpayer.~~

39    (v) ~~A failure to continue the seasonal employment of a qualified~~  
40 ~~disadvantaged individual, if that individual is replaced by other~~

1 qualified displaced employees so as to create a net increase in both  
2 the number of seasonal employees and the hours of seasonal  
3 employment.

4 (C) For purposes of paragraph (1), the employment relationship  
5 between the taxpayer and an employee shall not be treated as  
6 terminated by reason of a mere change in the form of conducting  
7 the trade or business of the taxpayer, if the employee continues to  
8 be employed in that trade or business and the taxpayer retains a  
9 substantial interest in that trade or business.

10 (3) Any increase in tax under paragraph (1) shall not be treated  
11 as tax imposed by this part for purposes of determining the amount  
12 of any credit allowable under this part.

13 (4) At the close of the second taxable year, if the taxpayer has  
14 not increased the number of its employees as determined by  
15 paragraph (5) of subdivision (b), then the amount of the credit  
16 previously claimed shall be added to the taxpayer's net tax for the  
17 taxpayer's second taxable year.

18 (f) In the case of an estate or trust, both of the following apply:

19 (1) The qualified wages for any taxable year shall be apportioned  
20 between the estate or trust and the beneficiaries on the basis of the  
21 income of the estate or trust allocable to each.

22 (2) Any beneficiary to whom any qualified wages have been  
23 apportioned under paragraph (1) shall be treated (for purposes of  
24 this part) as the employer with respect to those wages.

25 (g) The credit shall be reduced by the credit allowed under  
26 Section 17053.7. The credit shall also be reduced by the federal  
27 credit allowed under Section 51 of the Internal Revenue Code.

28 In addition, any deduction otherwise allowed under this part for  
29 the wages or salaries paid or incurred by the taxpayer upon which  
30 the credit is based shall be reduced by the amount of the credit,  
31 prior to any reduction required by subdivision (h) or (i).

32 (h) In the case where the credit otherwise allowed under this  
33 section exceeds the "net tax" for the taxable year, that portion of  
34 the credit that exceeds the "net tax" may be carried over and added  
35 to the credit, if any, in succeeding years, until the credit is  
36 exhausted. The credit shall be applied first to the earliest taxable  
37 years possible.

38 (i) (1) The amount of credit otherwise allowed under this section  
39 and Section 17053.45, including prior year credit carryovers, that  
40 may reduce the "net tax" for the taxable year shall not exceed the

1 amount of tax that would be imposed on the taxpayer's business  
2 income attributed to a LAMBRA determined as if that attributed  
3 income represented all of the net income of the taxpayer subject  
4 to tax under this part.

5 (2) ~~Attributable income shall be that portion of the taxpayer's~~  
6 ~~California source business income that is apportioned to the~~  
7 ~~LAMBRA. For that purpose, the taxpayer's business income that~~  
8 ~~is attributable to sources in this state first shall be determined in~~  
9 ~~accordance with Chapter 17 (commencing with Section 25101) of~~  
10 ~~Part 11. That business income shall be further apportioned to the~~  
11 ~~LAMBRA in accordance with Article 2 (commencing with Section~~  
12 ~~25120) of Chapter 17 of Part 11, modified for purposes of this~~  
13 ~~section in accordance with paragraph (3).~~

14 (3) ~~Income shall be apportioned to a LAMBRA by multiplying~~  
15 ~~the total California business income of the taxpayer by a fraction,~~  
16 ~~the numerator of which is the property factor plus the payroll factor,~~  
17 ~~and the denominator of which is two. For purposes of this~~  
18 ~~paragraph:~~

19 (A) ~~The property factor is a fraction, the numerator of which is~~  
20 ~~the average value of the taxpayer's real and tangible personal~~  
21 ~~property owned or rented and used in the LAMBRA during the~~  
22 ~~taxable year, and the denominator of which is the average value~~  
23 ~~of all the taxpayer's real and tangible personal property owned or~~  
24 ~~rented and used in this state during the taxable year.~~

25 (B) ~~The payroll factor is a fraction, the numerator of which is~~  
26 ~~the total amount paid by the taxpayer in the LAMBRA during the~~  
27 ~~taxable year for compensation, and the denominator of which is~~  
28 ~~the total compensation paid by the taxpayer in this state during the~~  
29 ~~taxable year.~~

30 (4) ~~The portion of any credit remaining, if any, after application~~  
31 ~~of this subdivision, shall be carried over to succeeding taxable~~  
32 ~~years, as if it were an amount exceeding the "net tax" for the~~  
33 ~~taxable year, as provided in subdivision (h).~~

34 (j) ~~If the taxpayer is allowed a credit pursuant to this section for~~  
35 ~~qualified wages paid or incurred, only one credit shall be allowed~~  
36 ~~to the taxpayer under this part with respect to any wage consisting~~  
37 ~~in whole or in part of those qualified wages.~~

38 (k) ~~(1) Notwithstanding subdivision (a), if a qualified taxpayer~~  
39 ~~relocated to a LAMBRA from within the state during any taxable~~  
40 ~~year beginning on or after January 1, 2011, the qualified taxpayer~~

1 shall be allowed a credit for the taxable year only with respect to  
2 qualified wages paid for each net increase in qualified employees;  
3 and only if the qualified taxpayer makes each employee at the  
4 previous location or locations a written bona fide offer of  
5 employment at the new location.

6 (2) The net increase in employees of a qualified taxpayer shall  
7 be determined as provided by this subdivision:

8 (A) The net increase in employees shall be determined by  
9 subtracting from the amount determined in subparagraph (C) the  
10 amount determined in subparagraph (B):

11 (B) The total number of employees employed in the state in the  
12 preceding taxable year by the qualified taxpayer and by any trade  
13 or business acquired by the qualified taxpayer during the current  
14 taxable year.

15 (C) The total number of employees employed in the state in the  
16 current taxable year by the qualified taxpayer and by any trade or  
17 business acquired during the current taxable year.

18 SEC. 3. Section 17053.47 of the Revenue and Taxation Code  
19 is amended to read:

20 17053.47. (a) For each taxable year beginning on or after  
21 January 1, 1998, there shall be allowed a credit against the “net  
22 tax” (as defined in Section 17039) to a qualified taxpayer for hiring  
23 a qualified disadvantaged individual during the taxable year for  
24 employment in the manufacturing enhancement area. The credit  
25 shall be equal to the sum of each of the following:

26 (1) Fifty percent of the qualified wages in the first year of  
27 employment.

28 (2) Forty percent of the qualified wages in the second year of  
29 employment.

30 (3) Thirty percent of the qualified wages in the third year of  
31 employment.

32 (4) Twenty percent of the qualified wages in the fourth year of  
33 employment.

34 (5) Ten percent of the qualified wages in the fifth year of  
35 employment.

36 (b) For purposes of this section:

37 (1) “Qualified wages” means:

38 (A) That portion of wages paid or incurred by the qualified  
39 taxpayer during the taxable year to qualified disadvantaged  
40 individuals that does not exceed 150 percent of the minimum wage.

1     ~~(B) The total amount of qualified wages which may be taken~~  
2     ~~into account for purposes of claiming the credit allowed under this~~  
3     ~~section shall not exceed two million dollars (\$2,000,000) per~~  
4     ~~taxable year.~~

5     ~~(C) Wages received during the 60-month period beginning with~~  
6     ~~the first day the qualified disadvantaged individual commences~~  
7     ~~employment with the qualified taxpayer. Reemployment in~~  
8     ~~connection with any increase, including a regularly occurring~~  
9     ~~seasonal increase, in the trade or business operations of the taxpayer~~  
10    ~~does not constitute commencement of employment for purposes~~  
11    ~~of this section.~~

12    ~~(D) Qualified wages do not include any wages paid or incurred~~  
13    ~~by the qualified taxpayer on or after the manufacturing~~  
14    ~~enhancement area expiration date. However, wages paid or incurred~~  
15    ~~with respect to qualified employees who are employed by the~~  
16    ~~qualified taxpayer within the manufacturing enhancement area~~  
17    ~~within the 60-month period prior to the manufacturing enhancement~~  
18    ~~area expiration date shall continue to qualify for the credit under~~  
19    ~~this section after the manufacturing enhancement area expiration~~  
20    ~~date, in accordance with all provisions of this section applied as~~  
21    ~~if the manufacturing enhancement area designation were still in~~  
22    ~~existence and binding.~~

23    ~~(2) “Minimum wage” means the wage established by the~~  
24    ~~Industrial Welfare Commission as provided for in Chapter 1~~  
25    ~~(commencing with Section 1171) of Part 4 of Division 2 of the~~  
26    ~~Labor Code.~~

27    ~~(3) “Manufacturing enhancement area” means an area designated~~  
28    ~~pursuant to Section 7073.8 of the Government Code according to~~  
29    ~~the procedures of Chapter 12.8 (commencing with Section 7070)~~  
30    ~~of Division 7 of Title 1 of the Government Code.~~

31    ~~(4) “Manufacturing enhancement area expiration date” means~~  
32    ~~the date the manufacturing enhancement area designation expires;~~  
33    ~~is no longer binding, or becomes inoperative.~~

34    ~~(5) “Qualified disadvantaged individual” means an individual~~  
35    ~~who satisfies all of the following requirements:~~

36    ~~(A) (i) At least 90 percent of whose services for the qualified~~  
37    ~~taxpayer during the taxable year are directly related to the conduct~~  
38    ~~of the qualified taxpayer’s trade or business located in a~~  
39    ~~manufacturing enhancement area.~~

1     (ii) ~~Who performs at least 50 percent of his or her services for~~  
2     ~~the qualified taxpayer during the taxable year in the manufacturing~~  
3     ~~enhancement area.~~

4     (B) ~~Who is hired by the qualified taxpayer after the designation~~  
5     ~~of the area as a manufacturing enhancement area in which the~~  
6     ~~individual's services were primarily performed.~~

7     (C) ~~Who is any of the following immediately preceding the~~  
8     ~~individual's commencement of employment with the qualified~~  
9     ~~taxpayer:~~

10    (i) ~~An individual who has been determined eligible for services~~  
11    ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~  
12    ~~1501 et seq.), or its successor.~~

13    (ii) ~~Any voluntary or mandatory registrant under the Greater~~  
14    ~~Avenues for Independence Act of 1985, or its successor, as~~  
15    ~~provided pursuant to Article 3.2 (commencing with Section 11320)~~  
16    ~~of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions~~  
17    ~~Code.~~

18    (iii) ~~Any individual who has been certified eligible by the~~  
19    ~~Employment Development Department under the federal Targeted~~  
20    ~~Jobs Tax Credit Program, or its successor, whether or not this~~  
21    ~~program is in effect.~~

22    (6) ~~"Qualified taxpayer" means any taxpayer engaged in a trade~~  
23    ~~or business within a manufacturing enhancement area designated~~  
24    ~~pursuant to Section 7073.8 of the Government Code and who meets~~  
25    ~~all of the following requirements:~~

26    (A) ~~Is engaged in those lines of business described in Codes~~  
27    ~~0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,~~  
28    ~~inclusive, of the Standard Industrial Classification (SIC) Manual~~  
29    ~~published by the United States Office of Management and Budget,~~  
30    ~~1987 edition.~~

31    (B) ~~At least 50 percent of the qualified taxpayer's workforce~~  
32    ~~hired after the designation of the manufacturing enhancement area~~  
33    ~~is composed of individuals who, at the time of hire, are residents~~  
34    ~~of the county in which the manufacturing enhancement area is~~  
35    ~~located.~~

36    (C) ~~Of this percentage of local hires, at least 30 percent shall~~  
37    ~~be qualified disadvantaged individuals.~~

38    (7) ~~"Seasonal employment" means employment by a qualified~~  
39    ~~taxpayer that has regular and predictable substantial reductions in~~  
40    ~~trade or business operations.~~



1 ~~(e) (1) For purposes of this section, all of the following apply:~~

2 ~~(A) All employees of trades or businesses that are under~~  
3 ~~common control shall be treated as employed by a single qualified~~  
4 ~~taxpayer.~~

5 ~~(B) The credit (if any) allowable by this section with respect to~~  
6 ~~each trade or business shall be determined by reference to its~~  
7 ~~proportionate share of the expense of the qualified wages giving~~  
8 ~~rise to the credit and shall be allocated in that manner.~~

9 ~~(C) Principles that apply in the case of controlled groups of~~  
10 ~~corporations, as specified in subdivision (d) of Section 23622.7,~~  
11 ~~shall apply with respect to determining employment.~~

12 ~~(2) If a qualified taxpayer acquires the major portion of a trade~~  
13 ~~or business of another employer (hereinafter in this paragraph~~  
14 ~~referred to as the "predecessor") or the major portion of a separate~~  
15 ~~unit of a trade or business of a predecessor, then, for purposes of~~  
16 ~~applying this section (other than subdivision (d)) for any calendar~~  
17 ~~year ending after that acquisition, the employment relationship~~  
18 ~~between a qualified disadvantaged individual and a qualified~~  
19 ~~taxpayer shall not be treated as terminated if the qualified~~  
20 ~~disadvantaged individual continues to be employed in that trade~~  
21 ~~or business.~~

22 ~~(d) (1) (A) If the employment, other than seasonal employment,~~  
23 ~~of any qualified disadvantaged individual, with respect to whom~~  
24 ~~qualified wages are taken into account under subdivision (b) is~~  
25 ~~terminated by the qualified taxpayer at any time during the first~~  
26 ~~270 days of that employment (whether or not consecutive) or before~~  
27 ~~the close of the 270th calendar day after the day in which that~~  
28 ~~qualified disadvantaged individual completes 90 days of~~  
29 ~~employment with the qualified taxpayer, the tax imposed by this~~  
30 ~~part for the taxable year in which that employment is terminated~~  
31 ~~shall be increased by an amount equal to the credit allowed under~~  
32 ~~subdivision (a) for that taxable year and all prior taxable years~~  
33 ~~attributable to qualified wages paid or incurred with respect to that~~  
34 ~~qualified disadvantaged individual.~~

35 ~~(B) If the seasonal employment of any qualified disadvantaged~~  
36 ~~individual, with respect to whom qualified wages are taken into~~  
37 ~~account under subdivision (a) is not continued by the qualified~~  
38 ~~taxpayer for a period of 270 days of employment during the~~  
39 ~~60-month period beginning with the day the qualified~~  
40 ~~disadvantaged individual commences seasonal employment with~~

1 the qualified taxpayer, the tax imposed by this part, for the taxable  
2 year that includes the 60th month following the month in which  
3 the qualified disadvantaged individual commences seasonal  
4 employment with the qualified taxpayer, shall be increased by an  
5 amount equal to the credit allowed under subdivision (a) for that  
6 taxable year and all prior taxable years attributable to qualified  
7 wages paid or incurred with respect to that qualified disadvantaged  
8 individual.

9 (2) (A) Subparagraph (A) of paragraph (1) does not apply to  
10 any of the following:

11 (i) A termination of employment of a qualified disadvantaged  
12 individual who voluntarily leaves the employment of the qualified  
13 taxpayer.

14 (ii) A termination of employment of a qualified disadvantaged  
15 individual who, before the close of the period referred to in  
16 subparagraph (A) of paragraph (1), becomes disabled to perform  
17 the services of that employment, unless that disability is removed  
18 before the close of that period and the taxpayer fails to offer  
19 reemployment to that individual.

20 (iii) A termination of employment of a qualified disadvantaged  
21 individual, if it is determined that the termination was due to the  
22 misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,  
23 of Title 22 of the California Code of Regulations) of that individual.

24 (iv) A termination of employment of a qualified disadvantaged  
25 individual due to a substantial reduction in the trade or business  
26 operations of the qualified taxpayer.

27 (v) A termination of employment of a qualified disadvantaged  
28 individual, if that individual is replaced by other qualified  
29 disadvantaged individuals so as to create a net increase in both the  
30 number of employees and the hours of employment.

31 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
32 of the following:

33 (i) A failure to continue the seasonal employment of a qualified  
34 disadvantaged individual who voluntarily fails to return to the  
35 seasonal employment of the qualified taxpayer.

36 (ii) A failure to continue the seasonal employment of a qualified  
37 disadvantaged individual who, before the close of the period  
38 referred to in subparagraph (B) of paragraph (1), becomes disabled  
39 and unable to perform the services of that seasonal employment,  
40 unless that disability is removed before the close of that period

1 and the qualified taxpayer fails to offer seasonal employment to  
2 that qualified disadvantaged individual.

3 (iii) A failure to continue the seasonal employment of a qualified  
4 disadvantaged individual, if it is determined that the failure to  
5 continue the seasonal employment was due to the misconduct (as  
6 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
7 the California Code of Regulations) of that qualified disadvantaged  
8 individual.

9 (iv) A failure to continue seasonal employment of a qualified  
10 disadvantaged individual due to a substantial reduction in the  
11 regular seasonal trade or business operations of the qualified  
12 taxpayer.

13 (v) A failure to continue the seasonal employment of a qualified  
14 disadvantaged individual, if that qualified disadvantaged individual  
15 is replaced by other qualified disadvantaged individuals so as to  
16 create a net increase in both the number of seasonal employees  
17 and the hours of seasonal employment.

18 (C) For purposes of paragraph (1), the employment relationship  
19 between the qualified taxpayer and a qualified disadvantaged  
20 individual shall not be treated as terminated by reason of a mere  
21 change in the form of conducting the trade or business of the  
22 qualified taxpayer, if the qualified disadvantaged individual  
23 continues to be employed in that trade or business and the qualified  
24 taxpayer retains a substantial interest in that trade or business.

25 (3) Any increase in tax under paragraph (1) shall not be treated  
26 as tax imposed by this part for purposes of determining the amount  
27 of any credit allowable under this part.

28 (e) In the case of an estate or trust, both of the following apply:

29 (1) The qualified wages for any taxable year shall be apportioned  
30 between the estate or trust and the beneficiaries on the basis of the  
31 income of the estate or trust allocable to each.

32 (2) Any beneficiary to whom any qualified wages have been  
33 apportioned under paragraph (1) shall be treated (for purposes of  
34 this part) as the employer with respect to those wages.

35 (f) The credit shall be reduced by the credit allowed under  
36 Section 17053.7. The credit shall also be reduced by the federal  
37 credit allowed under Section 51 of the Internal Revenue Code.

38 In addition, any deduction otherwise allowed under this part for  
39 the wages or salaries paid or incurred by the qualified taxpayer  
40 upon which the credit is based shall be reduced by the amount of

1 the credit, prior to any reduction required by subdivision (g) or  
2 (h):

3 (g) In the case where the credit otherwise allowed under this  
4 section exceeds the “net tax” for the taxable year, that portion of  
5 the credit that exceeds the “net tax” may be carried over and added  
6 to the credit, if any, in succeeding years, until the credit is  
7 exhausted. The credit shall be applied first to the earliest taxable  
8 years possible.

9 (h) (1) The amount of credit otherwise allowed under this  
10 section, including prior year credit carryovers, that may reduce  
11 the “net tax” for the taxable year shall not exceed the amount of  
12 tax that would be imposed on the qualified taxpayer’s business  
13 income attributed to a manufacturing enhancement area determined  
14 as if that attributed income represented all of the net income of the  
15 qualified taxpayer subject to tax under this part.

16 (2) Attributable income shall be that portion of the taxpayer’s  
17 California source business income that is apportioned to the  
18 manufacturing enhancement area. For that purpose, the taxpayer’s  
19 business income that is attributable to sources in this state first  
20 shall be determined in accordance with Chapter 17 (commencing  
21 with Section 25101) of Part 11. That business income shall be  
22 further apportioned to the manufacturing enhancement area in  
23 accordance with Article 2 (commencing with Section 25120) of  
24 Chapter 17 of Part 11, modified for purposes of this section in  
25 accordance with paragraph (3):

26 (3) Income shall be apportioned to a manufacturing enhancement  
27 area by multiplying the total California business income of the  
28 taxpayer by a fraction, the numerator of which is the property  
29 factor plus the payroll factor, and the denominator of which is two.  
30 For purposes of this paragraph:

31 (A) The property factor is a fraction, the numerator of which is  
32 the average value of the taxpayer’s real and tangible personal  
33 property owned or rented and used in the manufacturing  
34 enhancement area during the taxable year, and the denominator  
35 of which is the average value of all the taxpayer’s real and tangible  
36 personal property owned or rented and used in this state during  
37 the taxable year.

38 (B) The payroll factor is a fraction, the numerator of which is  
39 the total amount paid by the taxpayer in the manufacturing  
40 enhancement area during the taxable year for compensation, and

1 the denominator of which is the total compensation paid by the  
2 taxpayer in this state during the taxable year.

3 (4) The portion of any credit remaining, if any, after application  
4 of this subdivision, shall be carried over to succeeding taxable  
5 years, as if it were an amount exceeding the “net tax” for the  
6 taxable year, as provided in subdivision (g).

7 (i) If the taxpayer is allowed a credit pursuant to this section for  
8 qualified wages paid or incurred, only one credit shall be allowed  
9 to the taxpayer under this part with respect to any wage consisting  
10 in whole or in part of those qualified wages.

11 (j) The qualified taxpayer shall do both of the following:

12 (1) Obtain from the Employment Development Department, as  
13 permitted by federal law, the local county or city Job Training  
14 Partnership Act administrative entity, the local county GAIN office  
15 or social services agency, or the local government administering  
16 the manufacturing enhancement area, a certification that provides  
17 that a qualified disadvantaged individual meets the eligibility  
18 requirements specified in paragraph (5) of subdivision (b). The  
19 Employment Development Department may provide preliminary  
20 screening and referral to a certifying agency. The Department of  
21 Housing and Community Development shall develop regulations  
22 governing the issuance of certificates pursuant to subdivision (d)  
23 of Section 7086 of the Government Code and shall develop forms  
24 for this purpose.

25 (2) Retain a copy of the certification and provide it upon request  
26 to the Franchise Tax Board.

27 (k) (1) Notwithstanding subdivision (a), if a qualified taxpayer  
28 relocated to a manufacturing enhancement area from within the  
29 state during any taxable year beginning on or after January 1, 2011,  
30 the qualified taxpayer shall be allowed a credit for the taxable year  
31 only with respect to qualified wages paid for each net increase in  
32 qualified employees, and only if the qualified taxpayer makes each  
33 employee at the previous location or locations a written bona fide  
34 offer of employment at the new location.

35 (2) The net increase in employees of a qualified taxpayer shall  
36 be determined as provided by this subdivision:

37 (A) The net increase in employees shall be determined by  
38 subtracting from the amount determined in subparagraph (C) the  
39 amount determined in subparagraph (B).

1     ~~(B) The total number of employees employed in the state in the~~  
2     ~~preceding taxable year by the qualified taxpayer and by any trade~~  
3     ~~or business acquired by the qualified taxpayer during the current~~  
4     ~~taxable year.~~

5     ~~(C) The total number of employees employed in the state in the~~  
6     ~~current taxable year by the qualified taxpayer and by any trade or~~  
7     ~~business acquired during the current taxable year.~~

8     ~~SEC. 4. Section 17053.74 of the Revenue and Taxation Code~~  
9     ~~is amended to read:~~

10     ~~17053.74. (a) There shall be allowed a credit against the “net~~  
11     ~~tax” (as defined in Section 17039) to a taxpayer who employs a~~  
12     ~~qualified employee in an enterprise zone during the taxable year.~~  
13     ~~The credit shall be equal to the sum of each of the following:~~

14     ~~(1) Fifty percent of qualified wages in the first year of~~  
15     ~~employment.~~

16     ~~(2) Forty percent of qualified wages in the second year of~~  
17     ~~employment.~~

18     ~~(3) Thirty percent of qualified wages in the third year of~~  
19     ~~employment.~~

20     ~~(4) Twenty percent of qualified wages in the fourth year of~~  
21     ~~employment.~~

22     ~~(5) Ten percent of qualified wages in the fifth year of~~  
23     ~~employment.~~

24     ~~(b) For purposes of this section:~~

25     ~~(1) “Qualified wages” means:~~

26     ~~(A) (i) Except as provided in clause (ii), that portion of wages~~  
27     ~~paid or incurred by the taxpayer during the taxable year to qualified~~  
28     ~~employees that does not exceed 150 percent of the minimum wage.~~

29     ~~(ii) For up to 1,350 qualified employees who are employed by~~  
30     ~~the taxpayer in the Long Beach Enterprise Zone in aircraft~~  
31     ~~manufacturing activities described in Codes 3721 to 3728,~~  
32     ~~inclusive, and Code 3812 of the Standard Industrial Classification~~  
33     ~~(SIC) Manual published by the United States Office of~~  
34     ~~Management and Budget, 1987 edition, “qualified wages” means~~  
35     ~~that portion of hourly wages that does not exceed 202 percent of~~  
36     ~~the minimum wage.~~

37     ~~(B) Wages received during the 60-month period beginning with~~  
38     ~~the first day the employee commences employment with the~~  
39     ~~taxpayer. Reemployment in connection with any increase, including~~  
40     ~~a regularly occurring seasonal increase, in the trade or business~~

1 operations of the taxpayer does not constitute commencement of  
2 employment for purposes of this section.

3 (C) ~~Qualified wages do not include any wages paid or incurred~~  
4 ~~by the taxpayer on or after the zone expiration date. However,~~  
5 ~~wages paid or incurred with respect to qualified employees who~~  
6 ~~are employed by the taxpayer within the enterprise zone within~~  
7 ~~the 60-month period prior to the zone expiration date shall continue~~  
8 ~~to qualify for the credit under this section after the zone expiration~~  
9 ~~date, in accordance with all provisions of this section applied as~~  
10 ~~if the enterprise zone designation were still in existence and~~  
11 ~~binding.~~

12 (2) ~~“Minimum wage” means the wage established by the~~  
13 ~~Industrial Welfare Commission as provided for in Chapter 1~~  
14 ~~(commencing with Section 1171) of Part 4 of Division 2 of the~~  
15 ~~Labor Code.~~

16 (3) ~~“Zone expiration date” means the date the enterprise zone~~  
17 ~~designation expires, is no longer binding, or becomes inoperative.~~

18 (4) (A) ~~“Qualified employee” means an individual who meets~~  
19 ~~all of the following requirements:~~

20 (i) ~~At least 90 percent of whose services for the taxpayer during~~  
21 ~~the taxable year are directly related to the conduct of the taxpayer’s~~  
22 ~~trade or business located in an enterprise zone.~~

23 (ii) ~~Performs at least 50 percent of his or her services for the~~  
24 ~~taxpayer during the taxable year in an enterprise zone.~~

25 (iii) ~~Is hired by the taxpayer after the date of original designation~~  
26 ~~of the area in which services were performed as an enterprise zone.~~

27 (iv) ~~Is any of the following:~~

28 (I) ~~Immediately preceding the qualified employee’s~~  
29 ~~commencement of employment with the taxpayer, was a person~~  
30 ~~eligible for services under the federal Job Training Partnership~~  
31 ~~Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,~~  
32 ~~or is eligible to receive, subsidized employment, training, or~~  
33 ~~services funded by the federal Job Training Partnership Act, or its~~  
34 ~~successor.~~

35 (II) ~~Immediately preceding the qualified employee’s~~  
36 ~~commencement of employment with the taxpayer, was a person~~  
37 ~~eligible to be a voluntary or mandatory registrant under the Greater~~  
38 ~~Avenues for Independence Act of 1985 (GAIN) provided for~~  
39 ~~pursuant to Article 3.2 (commencing with Section 11320) of~~

~~Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~

~~(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.~~

~~(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:~~

~~(ia) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.~~

~~(ib) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.~~

~~(ic) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.~~

~~(id) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.~~

~~(ie) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.~~

~~(if) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.~~

~~(ig) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.~~

~~(ih) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.~~



1     (V) Immediately preceding the qualified employee's  
2 commencement of employment with the taxpayer, was a disabled  
3 individual who is eligible for or enrolled in, or has completed a  
4 state rehabilitation plan or is a service-connected disabled veteran,  
5 veteran of the Vietnam era, or veteran who is recently separated  
6 from military service.

7     (VI) Immediately preceding the qualified employee's  
8 commencement of employment with the taxpayer, was an  
9 ex-offender. An individual shall be treated as convicted if he or  
10 she was placed on probation by a state court without a finding of  
11 guilt.

12     (VII) Immediately preceding the qualified employee's  
13 commencement of employment with the taxpayer, was a person  
14 eligible for or a recipient of any of the following:

15         (ia) Federal Supplemental Security Income benefits.

16         (ib) Aid to Families with Dependent Children.

17         (ic) Food stamps.

18         (id) State and local general assistance.

19     (VIII) Immediately preceding the qualified employee's  
20 commencement of employment with the taxpayer, was a member  
21 of a federally recognized Indian tribe, band, or other group of  
22 Native American descent.

23     (IX) Immediately preceding the qualified employee's  
24 commencement of employment with the taxpayer, was a resident  
25 of a targeted employment area, as defined in Section 7072 of the  
26 Government Code.

27     (X) An employee who qualified the taxpayer for the enterprise  
28 zone hiring credit under former Section 17053.8 or the program  
29 area hiring credit under former Section 17053.11.

30     (XI) Immediately preceding the qualified employee's  
31 commencement of employment with the taxpayer, was a member  
32 of a targeted group, as defined in Section 51(d) of the Internal  
33 Revenue Code, or its successor.

34     (B) Priority for employment shall be provided to an individual  
35 who is enrolled in a qualified program under the federal Job  
36 Training Partnership Act or the Greater Avenues for Independence  
37 Act of 1985 or who is eligible as a member of a targeted group  
38 under the Work Opportunity Tax Credit (Section 51 of the Internal  
39 Revenue Code), or its successor.

1     ~~(5) “Taxpayer” means a person or entity engaged in a trade or~~  
2     ~~business within an enterprise zone designated pursuant to Chapter~~  
3     ~~12.8 (commencing with Section 7070) of the Government Code.~~

4     ~~(6) “Seasonal employment” means employment by a taxpayer~~  
5     ~~that has regular and predictable substantial reductions in trade or~~  
6     ~~business operations.~~

7     ~~(e) The taxpayer shall do both of the following:~~

8     ~~(1) Obtain from the Employment Development Department, as~~  
9     ~~permitted by federal law, the local county or city Job Training~~  
10    ~~Partnership Act administrative entity, the local county GAIN office~~  
11    ~~or social services agency, or the local government administering~~  
12    ~~the enterprise zone, a certification which provides that a qualified~~  
13    ~~employee meets the eligibility requirements specified in clause~~  
14    ~~(iv) of subparagraph (A) of paragraph (4) of subdivision (b). The~~  
15    ~~Employment Development Department may provide preliminary~~  
16    ~~screening and referral to a certifying agency. The Employment~~  
17    ~~Development Department shall develop a form for this purpose.~~  
18    ~~The Department of Housing and Community Development shall~~  
19    ~~develop regulations governing the issuance of certificates by local~~  
20    ~~governments pursuant to subdivision (a) of Section 7086 of the~~  
21    ~~Government Code.~~

22    ~~(2) Retain a copy of the certification and provide it upon request~~  
23    ~~to the Franchise Tax Board.~~

24    ~~(d) (1) For purposes of this section:~~

25    ~~(A) All employees of trades or businesses, which are not~~  
26    ~~incorporated, that are under common control shall be treated as~~  
27    ~~employed by a single taxpayer.~~

28    ~~(B) The credit, if any, allowable by this section with respect to~~  
29    ~~each trade or business shall be determined by reference to its~~  
30    ~~proportionate share of the expense of the qualified wages giving~~  
31    ~~rise to the credit, and shall be allocated in that manner.~~

32    ~~(C) Principles that apply in the case of controlled groups of~~  
33    ~~corporations, as specified in subdivision (d) of Section 23622.7,~~  
34    ~~shall apply with respect to determining employment.~~

35    ~~(2) If an employer acquires the major portion of a trade or~~  
36    ~~business of another employer (hereinafter in this paragraph referred~~  
37    ~~to as the “predecessor”) or the major portion of a separate unit of~~  
38    ~~a trade or business of a predecessor, then, for purposes of applying~~  
39    ~~this section (other than subdivision (c)) for any calendar year~~  
40    ~~ending after that acquisition, the employment relationship between~~

1 a qualified employee and an employer shall not be treated as  
2 terminated if the employee continues to be employed in that trade  
3 or business.

4 (e) (1) (A) If the employment, other than seasonal employment,  
5 of any qualified employee, with respect to whom qualified wages  
6 are taken into account under subdivision (a) is terminated by the  
7 taxpayer at any time during the first 270 days of that employment  
8 (whether or not consecutive) or before the close of the 270th  
9 calendar day after the day in which that employee completes 90  
10 days of employment with the taxpayer, the tax imposed by this  
11 part for the taxable year in which that employment is terminated  
12 shall be increased by an amount equal to the credit allowed under  
13 subdivision (a) for that taxable year and all prior taxable years  
14 attributable to qualified wages paid or incurred with respect to that  
15 employee.

16 (B) If the seasonal employment of any qualified employee, with  
17 respect to whom qualified wages are taken into account under  
18 subdivision (a) is not continued by the taxpayer for a period of  
19 270 days of employment during the 60-month period beginning  
20 with the day the qualified employee commences seasonal  
21 employment with the taxpayer, the tax imposed by this part, for  
22 the taxable year that includes the 60th month following the month  
23 in which the qualified employee commences seasonal employment  
24 with the taxpayer, shall be increased by an amount equal to the  
25 credit allowed under subdivision (a) for that taxable year and all  
26 prior taxable years attributable to qualified wages paid or incurred  
27 with respect to that qualified employee.

28 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
29 any of the following:

30 (i) A termination of employment of a qualified employee who  
31 voluntarily leaves the employment of the taxpayer.

32 (ii) A termination of employment of a qualified employee who,  
33 before the close of the period referred to in paragraph (1), becomes  
34 disabled and unable to perform the services of that employment,  
35 unless that disability is removed before the close of that period  
36 and the taxpayer fails to offer reemployment to that employee.

37 (iii) A termination of employment of a qualified employee, if  
38 it is determined that the termination was due to the misconduct (as  
39 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
40 the California Code of Regulations) of that employee.

1     ~~(iv) A termination of employment of a qualified employee due~~  
2     ~~to a substantial reduction in the trade or business operations of the~~  
3     ~~taxpayer.~~

4     ~~(v) A termination of employment of a qualified employee, if~~  
5     ~~that employee is replaced by other qualified employees so as to~~  
6     ~~create a net increase in both the number of employees and the~~  
7     ~~hours of employment.~~

8     ~~(B) Subparagraph (B) of paragraph (1) shall not apply to any~~  
9     ~~of the following:~~

10    ~~(i) A failure to continue the seasonal employment of a qualified~~  
11    ~~employee who voluntarily fails to return to the seasonal~~  
12    ~~employment of the taxpayer.~~

13    ~~(ii) A failure to continue the seasonal employment of a qualified~~  
14    ~~employee who, before the close of the period referred to in~~  
15    ~~subparagraph (B) of paragraph (1), becomes disabled and unable~~  
16    ~~to perform the services of that seasonal employment, unless that~~  
17    ~~disability is removed before the close of that period and the~~  
18    ~~taxpayer fails to offer seasonal employment to that qualified~~  
19    ~~employee.~~

20    ~~(iii) A failure to continue the seasonal employment of a qualified~~  
21    ~~employee, if it is determined that the failure to continue the~~  
22    ~~seasonal employment was due to the misconduct (as defined in~~  
23    ~~Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California~~  
24    ~~Code of Regulations) of that qualified employee.~~

25    ~~(iv) A failure to continue seasonal employment of a qualified~~  
26    ~~employee due to a substantial reduction in the regular seasonal~~  
27    ~~trade or business operations of the taxpayer.~~

28    ~~(v) A failure to continue the seasonal employment of a qualified~~  
29    ~~employee, if that qualified employee is replaced by other qualified~~  
30    ~~employees so as to create a net increase in both the number of~~  
31    ~~seasonal employees and the hours of seasonal employment.~~

32    ~~(C) For purposes of paragraph (1), the employment relationship~~  
33    ~~between the taxpayer and a qualified employee shall not be treated~~  
34    ~~as terminated by reason of a mere change in the form of conducting~~  
35    ~~the trade or business of the taxpayer, if the qualified employee~~  
36    ~~continues to be employed in that trade or business and the taxpayer~~  
37    ~~retains a substantial interest in that trade or business.~~

38    ~~(3) Any increase in tax under paragraph (1) shall not be treated~~  
39    ~~as tax imposed by this part for purposes of determining the amount~~  
40    ~~of any credit allowable under this part.~~

1     (f) In the case of an estate or trust, both of the following apply:

2     (1) The qualified wages for any taxable year shall be apportioned  
3 between the estate or trust and the beneficiaries on the basis of the  
4 income of the estate or trust allocable to each.

5     (2) Any beneficiary to whom any qualified wages have been  
6 apportioned under paragraph (1) shall be treated, for purposes of  
7 this part, as the employer with respect to those wages.

8     (g) For purposes of this section, “enterprise zone” means an  
9 area designated as an enterprise zone pursuant to Chapter 12.8  
10 (commencing with Section 7070) of Division 7 of Title 1 of the  
11 Government Code.

12     (h) The credit allowable under this section shall be reduced by  
13 the credit allowed under Sections 17053.10, 17053.17 and 17053.46  
14 claimed for the same employee. The credit shall also be reduced  
15 by the federal credit allowed under Section 51 of the Internal  
16 Revenue Code.

17     In addition, any deduction otherwise allowed under this part for  
18 the wages or salaries paid or incurred by the taxpayer upon which  
19 the credit is based shall be reduced by the amount of the credit,  
20 prior to any reduction required by subdivision (i) or (j):

21     (i) In the case where the credit otherwise allowed under this  
22 section exceeds the “net tax” for the taxable year, that portion of  
23 the credit that exceeds the “net tax” may be carried over and added  
24 to the credit, if any, in succeeding taxable years, until the credit is  
25 exhausted. The credit shall be applied first to the earliest taxable  
26 years possible.

27     (j) (1) The amount of the credit otherwise allowed under this  
28 section and Section 17053.70, including any credit carryover from  
29 prior years, that may reduce the “net tax” for the taxable year shall  
30 not exceed the amount of tax which would be imposed on the  
31 taxpayer’s business income attributable to the enterprise zone  
32 determined as if that attributable income represented all of the  
33 income of the taxpayer subject to tax under this part.

34     (2) Attributable income shall be that portion of the taxpayer’s  
35 California source business income that is apportioned to the  
36 enterprise zone. For that purpose, the taxpayer’s business income  
37 attributable to sources in this state first shall be determined in  
38 accordance with Chapter 17 (commencing with Section 25101) of  
39 Part 11. That business income shall be further apportioned to the  
40 enterprise zone in accordance with Article 2 (commencing with

1 Section 25120) of Chapter 17 of Part 11, modified for purposes  
2 of this section in accordance with paragraph (3):

3 ~~(3) Business income shall be apportioned to the enterprise zone~~  
4 ~~by multiplying the total California business income of the taxpayer~~  
5 ~~by a fraction, the numerator of which is the property factor plus~~  
6 ~~the payroll factor, and the denominator of which is two. For~~  
7 ~~purposes of this paragraph:~~

8 ~~(A) The property factor is a fraction, the numerator of which is~~  
9 ~~the average value of the taxpayer's real and tangible personal~~  
10 ~~property owned or rented and used in the enterprise zone during~~  
11 ~~the taxable year, and the denominator of which is the average value~~  
12 ~~of all the taxpayer's real and tangible personal property owned or~~  
13 ~~rented and used in this state during the taxable year.~~

14 ~~(B) The payroll factor is a fraction, the numerator of which is~~  
15 ~~the total amount paid by the taxpayer in the enterprise zone during~~  
16 ~~the taxable year for compensation, and the denominator of which~~  
17 ~~is the total compensation paid by the taxpayer in this state during~~  
18 ~~the taxable year.~~

19 ~~(4) The portion of any credit remaining, if any, after application~~  
20 ~~of this subdivision, shall be carried over to succeeding taxable~~  
21 ~~years, as if it were an amount exceeding the "net tax" for the~~  
22 ~~taxable year, as provided in subdivision (i).~~

23 ~~(k) (1) Notwithstanding subdivision (a), if a taxpayer relocated~~  
24 ~~to an enterprise zone from within the state during any taxable year~~  
25 ~~beginning on or after January 1, 2011, the taxpayer shall be allowed~~  
26 ~~a credit for the taxable year only with respect to qualified wages~~  
27 ~~paid for each net increase in qualified employees, and only if the~~  
28 ~~taxpayer makes each employee at the previous location or locations~~  
29 ~~a written bona fide offer of employment at the new location.~~

30 ~~(2) The net increase in employees of a taxpayer shall be~~  
31 ~~determined as provided by this subdivision:~~

32 ~~(A) The net increase in employees shall be determined by~~  
33 ~~subtracting from the amount determined in subparagraph (C) the~~  
34 ~~amount determined in subparagraph (B):~~

35 ~~(B) The total number of employees employed in the state in the~~  
36 ~~preceding taxable year by the taxpayer and by any trade or business~~  
37 ~~acquired by the taxpayer during the current taxable year.~~

38 ~~(C) The total number of employees employed in the state in the~~  
39 ~~current taxable year by the taxpayer and by any trade or business~~  
40 ~~acquired during the current taxable year.~~

1 ~~(f) The changes made to this section by the act adding this~~  
2 ~~subdivision shall apply to taxable years beginning on or after~~  
3 ~~January 1, 1997.~~

4 ~~SEC. 5. Section 23622.7 of the Revenue and Taxation Code~~  
5 ~~is amended to read:~~

6 ~~23622.7. (a) There shall be allowed a credit against the “tax”~~  
7 ~~(as defined by Section 23036) to a taxpayer who employs a~~  
8 ~~qualified employee in an enterprise zone during the taxable year.~~  
9 ~~The credit shall be equal to the sum of each of the following:~~

10 ~~(1) Fifty percent of qualified wages in the first year of~~  
11 ~~employment.~~

12 ~~(2) Forty percent of qualified wages in the second year of~~  
13 ~~employment.~~

14 ~~(3) Thirty percent of qualified wages in the third year of~~  
15 ~~employment.~~

16 ~~(4) Twenty percent of qualified wages in the fourth year of~~  
17 ~~employment.~~

18 ~~(5) Ten percent of qualified wages in the fifth year of~~  
19 ~~employment.~~

20 ~~(b) For purposes of this section:~~

21 ~~(1) “Qualified wages” means:~~

22 ~~(A) (i) Except as provided in clause (ii), that portion of wages~~  
23 ~~paid or incurred by the taxpayer during the taxable year to qualified~~  
24 ~~employees that does not exceed 150 percent of the minimum wage.~~

25 ~~(ii) For up to 1,350 qualified employees who are employed by~~  
26 ~~the taxpayer in the Long Beach Enterprise Zone in aircraft~~  
27 ~~manufacturing activities described in Codes 3721 to 3728,~~  
28 ~~inclusive, and Code 3812 of the Standard Industrial Classification~~  
29 ~~(SIC) Manual published by the United States Office of~~  
30 ~~Management and Budget, 1987 edition, “qualified wages” means~~  
31 ~~that portion of hourly wages that does not exceed 202 percent of~~  
32 ~~the minimum wage.~~

33 ~~(B) Wages received during the 60-month period beginning with~~  
34 ~~the first day the employee commences employment with the~~  
35 ~~taxpayer. Reemployment in connection with any increase, including~~  
36 ~~a regularly occurring seasonal increase, in the trade or business~~  
37 ~~operations of the taxpayer does not constitute commencement of~~  
38 ~~employment for purposes of this section.~~

39 ~~(C) Qualified wages do not include any wages paid or incurred~~  
40 ~~by the taxpayer on or after the zone expiration date. However,~~

1 wages paid or incurred with respect to qualified employees who  
2 are employed by the taxpayer within the enterprise zone within  
3 the 60-month period prior to the zone expiration date shall continue  
4 to qualify for the credit under this section after the zone expiration  
5 date, in accordance with all provisions of this section applied as  
6 if the enterprise zone designation were still in existence and  
7 binding.

8 (2) “Minimum wage” means the wage established by the  
9 Industrial Welfare Commission as provided for in Chapter 1  
10 (commencing with Section 1171) of Part 4 of Division 2 of the  
11 Labor Code.

12 (3) “Zone expiration date” means the date the enterprise zone  
13 designation expires, is no longer binding, or becomes inoperative.

14 (4) (A) “Qualified employee” means an individual who meets  
15 all of the following requirements:

16 (i) At least 90 percent of whose services for the taxpayer during  
17 the taxable year are directly related to the conduct of the taxpayer’s  
18 trade or business located in an enterprise zone.

19 (ii) Performs at least 50 percent of his or her services for the  
20 taxpayer during the taxable year in an enterprise zone.

21 (iii) Is hired by the taxpayer after the date of original designation  
22 of the area in which services were performed as an enterprise zone.

23 (iv) Is any of the following:

24 (I) Immediately preceding the qualified employee’s  
25 commencement of employment with the taxpayer, was a person  
26 eligible for services under the federal Job Training Partnership  
27 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,  
28 or is eligible to receive, subsidized employment, training, or  
29 services funded by the federal Job Training Partnership Act, or its  
30 successor.

31 (II) Immediately preceding the qualified employee’s  
32 commencement of employment with the taxpayer, was a person  
33 eligible to be a voluntary or mandatory registrant under the Greater  
34 Avenues for Independence Act of 1985 (GAIN) provided for  
35 pursuant to Article 3.2 (commencing with Section 11320) of  
36 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions  
37 Code, or its successor.

38 (III) Immediately preceding the qualified employee’s  
39 commencement of employment with the taxpayer, was an  
40 economically disadvantaged individual 14 years of age or older.



1     ~~(IV) Immediately preceding the qualified employee's~~  
2     ~~commencement of employment with the taxpayer, was a dislocated~~  
3     ~~worker who meets any of the following:~~

4     ~~(ia) Has been terminated or laid off or who has received a notice~~  
5     ~~of termination or layoff from employment, is eligible for or has~~  
6     ~~exhausted entitlement to unemployment insurance benefits, and~~  
7     ~~is unlikely to return to his or her previous industry or occupation.~~

8     ~~(ib) Has been terminated or has received a notice of termination~~  
9     ~~of employment as a result of any permanent closure or any~~  
10    ~~substantial layoff at a plant, facility, or enterprise, including an~~  
11    ~~individual who has not received written notification but whose~~  
12    ~~employer has made a public announcement of the closure or layoff.~~

13    ~~(ic) Is long-term unemployed and has limited opportunities for~~  
14    ~~employment or reemployment in the same or a similar occupation~~  
15    ~~in the area in which the individual resides, including an individual~~  
16    ~~55 years of age or older who may have substantial barriers to~~  
17    ~~employment by reason of age.~~

18    ~~(id) Was self-employed (including farmers and ranchers) and~~  
19    ~~is unemployed as a result of general economic conditions in the~~  
20    ~~community in which he or she resides or because of natural~~  
21    ~~disasters.~~

22    ~~(ie) Was a civilian employee of the Department of Defense~~  
23    ~~employed at a military installation being closed or realigned under~~  
24    ~~the Defense Base Closure and Realignment Act of 1990.~~

25    ~~(if) Was an active member of the Armed Forces or National~~  
26    ~~Guard as of September 30, 1990, and was either involuntarily~~  
27    ~~separated or separated pursuant to a special benefits program.~~

28    ~~(ig) Is a seasonal or migrant worker who experiences chronic~~  
29    ~~seasonal unemployment and underemployment in the agriculture~~  
30    ~~industry, aggravated by continual advancements in technology and~~  
31    ~~mechanization.~~

32    ~~(ih) Has been terminated or laid off, or has received a notice of~~  
33    ~~termination or layoff, as a consequence of compliance with the~~  
34    ~~Clean Air Act.~~

35    ~~(V) Immediately preceding the qualified employee's~~  
36    ~~commencement of employment with the taxpayer, was a disabled~~  
37    ~~individual who is eligible for or enrolled in, or has completed a~~  
38    ~~state rehabilitation plan or is a service-connected disabled veteran,~~  
39    ~~veteran of the Vietnam era, or veteran who is recently separated~~  
40    ~~from military service.~~

1     ~~(VI) Immediately preceding the qualified employee's~~  
2     ~~commencement of employment with the taxpayer, was an~~  
3     ~~ex-offender. An individual shall be treated as convicted if he or~~  
4     ~~she was placed on probation by a state court without a finding of~~  
5     ~~guilt.~~

6     ~~(VII) Immediately preceding the qualified employee's~~  
7     ~~commencement of employment with the taxpayer, was a person~~  
8     ~~eligible for or a recipient of any of the following:~~

9     ~~(ia) Federal Supplemental Security Income benefits.~~

10    ~~(ib) Aid to Families with Dependent Children.~~

11    ~~(ic) Food stamps.~~

12    ~~(id) State and local general assistance.~~

13    ~~(VIII) Immediately preceding the qualified employee's~~  
14    ~~commencement of employment with the taxpayer, was a member~~  
15    ~~of a federally recognized Indian tribe, band, or other group of~~  
16    ~~Native American descent.~~

17    ~~(IX) Immediately preceding the qualified employee's~~  
18    ~~commencement of employment with the taxpayer, was a resident~~  
19    ~~of a targeted employment area (as defined in Section 7072 of the~~  
20    ~~Government Code).~~

21    ~~(X) An employee who qualified the taxpayer for the enterprise~~  
22    ~~zone hiring credit under former Section 23622 or the program area~~  
23    ~~hiring credit under former Section 23623.~~

24    ~~(XI) Immediately preceding the qualified employee's~~  
25    ~~commencement of employment with the taxpayer, was a member~~  
26    ~~of a targeted group, as defined in Section 51(d) of the Internal~~  
27    ~~Revenue Code, or its successor.~~

28    ~~(B) Priority for employment shall be provided to an individual~~  
29    ~~who is enrolled in a qualified program under the federal Job~~  
30    ~~Training Partnership Act or the Greater Avenues for Independence~~  
31    ~~Act of 1985 or who is eligible as a member of a targeted group~~  
32    ~~under the Work Opportunity Tax Credit (Section 51 of the Internal~~  
33    ~~Revenue Code), or its successor.~~

34    ~~(5) "Taxpayer" means a corporation engaged in a trade or~~  
35    ~~business within an enterprise zone designated pursuant to Chapter~~  
36    ~~12.8 (commencing with Section 7070) of Division 7 of Title 1 of~~  
37    ~~the Government Code.~~

38    ~~(6) "Seasonal employment" means employment by a taxpayer~~  
39    ~~that has regular and predictable substantial reductions in trade or~~  
40    ~~business operations.~~

1     ~~(e) The taxpayer shall do both of the following:~~

2     ~~(1) Obtain from the Employment Development Department, as~~  
3 ~~permitted by federal law, the local county or city Job Training~~  
4 ~~Partnership Act administrative entity, the local county GAIN office~~  
5 ~~or social services agency, or the local government administering~~  
6 ~~the enterprise zone, a certification that provides that a qualified~~  
7 ~~employee meets the eligibility requirements specified in clause~~  
8 ~~(iv) of subparagraph (A) of paragraph (4) of subdivision (b). The~~  
9 ~~Employment Development Department may provide preliminary~~  
10 ~~screening and referral to a certifying agency. The Employment~~  
11 ~~Development Department shall develop a form for this purpose.~~  
12 ~~The Department of Housing and Community Development shall~~  
13 ~~develop regulations governing the issuance of certificates by local~~  
14 ~~governments pursuant to subdivision (a) of Section 7086 of the~~  
15 ~~Government Code.~~

16     ~~(2) Retain a copy of the certification and provide it upon request~~  
17 ~~to the Franchise Tax Board.~~

18     ~~(d) (1) For purposes of this section:~~

19     ~~(A) All employees of all corporations which are members of~~  
20 ~~the same controlled group of corporations shall be treated as~~  
21 ~~employed by a single taxpayer.~~

22     ~~(B) The credit, if any, allowable by this section to each member~~  
23 ~~shall be determined by reference to its proportionate share of the~~  
24 ~~expense of the qualified wages giving rise to the credit, and shall~~  
25 ~~be allocated in that manner.~~

26     ~~(C) For purposes of this subdivision, “controlled group of~~  
27 ~~corporations” means “controlled group of corporations” as defined~~  
28 ~~in Section 1563(a) of the Internal Revenue Code, except that:~~

29     ~~(i) “More than 50 percent” shall be substituted for “at least 80~~  
30 ~~percent” each place it appears in Section 1563(a)(1) of the Internal~~  
31 ~~Revenue Code.~~

32     ~~(ii) The determination shall be made without regard to~~  
33 ~~subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal~~  
34 ~~Revenue Code.~~

35     ~~(2) If an employer acquires the major portion of a trade or~~  
36 ~~business of another employer (hereinafter in this paragraph referred~~  
37 ~~to as the “predecessor”) or the major portion of a separate unit of~~  
38 ~~a trade or business of a predecessor, then, for purposes of applying~~  
39 ~~this section (other than subdivision (c)) for any calendar year~~  
40 ~~ending after that acquisition, the employment relationship between~~

1 a qualified employee and an employer shall not be treated as  
2 terminated if the employee continues to be employed in that trade  
3 or business.

4 (e) (1) (A) If the employment, other than seasonal employment,  
5 of any qualified employee with respect to whom qualified wages  
6 are taken into account under subdivision (a) is terminated by the  
7 taxpayer at any time during the first 270 days of that employment,  
8 whether or not consecutive, or before the close of the 270th  
9 calendar day after the day in which that employee completes 90  
10 days of employment with the taxpayer, the tax imposed by this  
11 part for the taxable year in which that employment is terminated  
12 shall be increased by an amount equal to the credit allowed under  
13 subdivision (a) for that taxable year and all prior taxable years  
14 attributable to qualified wages paid or incurred with respect to that  
15 employee.

16 (B) If the seasonal employment of any qualified employee, with  
17 respect to whom qualified wages are taken into account under  
18 subdivision (a) is not continued by the taxpayer for a period of  
19 270 days of employment during the 60-month period beginning  
20 with the day the qualified employee commences seasonal  
21 employment with the taxpayer, the tax imposed by this part, for  
22 the taxable year that includes the 60th month following the month  
23 in which the qualified employee commences seasonal employment  
24 with the taxpayer, shall be increased by an amount equal to the  
25 credit allowed under subdivision (a) for that taxable year and all  
26 prior taxable years attributable to qualified wages paid or incurred  
27 with respect to that qualified employee.

28 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
29 any of the following:

30 (i) A termination of employment of a qualified employee who  
31 voluntarily leaves the employment of the taxpayer.

32 (ii) A termination of employment of a qualified employee who,  
33 before the close of the period referred to in subparagraph (A) of  
34 paragraph (1), becomes disabled and unable to perform the services  
35 of that employment, unless that disability is removed before the  
36 close of that period and the taxpayer fails to offer reemployment  
37 to that employee.

38 (iii) A termination of employment of a qualified employee, if  
39 it is determined that the termination was due to the misconduct (as

1 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
2 the California Code of Regulations) of that employee.

3 (iv) ~~A termination of employment of a qualified employee due~~  
4 ~~to a substantial reduction in the trade or business operations of the~~  
5 ~~taxpayer.~~

6 (v) ~~A termination of employment of a qualified employee, if~~  
7 ~~that employee is replaced by other qualified employees so as to~~  
8 ~~create a net increase in both the number of employees and the~~  
9 ~~hours of employment.~~

10 (B) ~~Subparagraph (B) of paragraph (1) shall not apply to any~~  
11 ~~of the following:~~

12 (i) ~~A failure to continue the seasonal employment of a qualified~~  
13 ~~employee who voluntarily fails to return to the seasonal~~  
14 ~~employment of the taxpayer.~~

15 (ii) ~~A failure to continue the seasonal employment of a qualified~~  
16 ~~employee who, before the close of the period referred to in~~  
17 ~~subparagraph (B) of paragraph (1), becomes disabled and unable~~  
18 ~~to perform the services of that seasonal employment, unless that~~  
19 ~~disability is removed before the close of that period and the~~  
20 ~~taxpayer fails to offer seasonal employment to that qualified~~  
21 ~~employee.~~

22 (iii) ~~A failure to continue the seasonal employment of a qualified~~  
23 ~~employee, if it is determined that the failure to continue the~~  
24 ~~seasonal employment was due to the misconduct (as defined in~~  
25 ~~Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California~~  
26 ~~Code of Regulations) of that qualified employee.~~

27 (iv) ~~A failure to continue seasonal employment of a qualified~~  
28 ~~employee due to a substantial reduction in the regular seasonal~~  
29 ~~trade or business operations of the taxpayer.~~

30 (v) ~~A failure to continue the seasonal employment of a qualified~~  
31 ~~employee, if that qualified employee is replaced by other qualified~~  
32 ~~employees so as to create a net increase in both the number of~~  
33 ~~seasonal employees and the hours of seasonal employment.~~

34 (C) ~~For purposes of paragraph (1), the employment relationship~~  
35 ~~between the taxpayer and a qualified employee shall not be treated~~  
36 ~~as terminated by either of the following:~~

37 (i) ~~By a transaction to which Section 381(a) of the Internal~~  
38 ~~Revenue Code applies, if the qualified employee continues to be~~  
39 ~~employed by the acquiring corporation.~~

~~(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.~~

~~(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.~~

~~(f) Rules similar to the rules provided in Section 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:~~

~~(1) An organization to which Section 593 of the Internal Revenue Code applies.~~

~~(2) A regulated investment company or a real estate investment trust subject to taxation under this part.~~

~~(g) For purposes of this section, “enterprise zone” means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.~~

~~(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625, and 23646 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.~~

~~In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j):~~

~~(i) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.~~

~~(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from prior years, that may reduce the “tax” for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer’s business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.~~

1     ~~(2) Attributable income shall be that portion of the taxpayer's~~  
2     ~~California source business income that is apportioned to the~~  
3     ~~enterprise zone. For that purpose, the taxpayer's business~~  
4     ~~attributable to sources in this state first shall be determined in~~  
5     ~~accordance with Chapter 17 (commencing with Section 25101).~~  
6     ~~That business income shall be further apportioned to the enterprise~~  
7     ~~zone in accordance with Article 2 (commencing with Section~~  
8     ~~25120) of Chapter 17, modified for purposes of this section in~~  
9     ~~accordance with paragraph (3).~~

10    ~~(3) Business income shall be apportioned to the enterprise zone~~  
11    ~~by multiplying the total California business income of the taxpayer~~  
12    ~~by a fraction, the numerator of which is the property factor plus~~  
13    ~~the payroll factor, and the denominator of which is two. For~~  
14    ~~purposes of this paragraph:~~

15    ~~(A) The property factor is a fraction, the numerator of which is~~  
16    ~~the average value of the taxpayer's real and tangible personal~~  
17    ~~property owned or rented and used in the enterprise zone during~~  
18    ~~the income year, and the denominator of which is the average value~~  
19    ~~of all the taxpayer's real and tangible personal property owned or~~  
20    ~~rented and used in this state during the income year.~~

21    ~~(B) The payroll factor is a fraction, the numerator of which is~~  
22    ~~the total amount paid by the taxpayer in the enterprise zone during~~  
23    ~~the income year for compensation, and the denominator of which~~  
24    ~~is the total compensation paid by the taxpayer in this state during~~  
25    ~~the income year.~~

26    ~~(4) The portion of any credit remaining, if any, after application~~  
27    ~~of this subdivision, shall be carried over to succeeding taxable~~  
28    ~~years, as if it were an amount exceeding the "tax" for the taxable~~  
29    ~~year, as provided in subdivision (i).~~

30    ~~(k) (1) Notwithstanding subdivision (a), if a taxpayer relocated~~  
31    ~~to an enterprise zone from within the state during any taxable year~~  
32    ~~beginning on or after January 1, 2011, the taxpayer shall be allowed~~  
33    ~~a credit for the taxable year only with respect to qualified wages~~  
34    ~~paid for each net increase in qualified employees, and only if the~~  
35    ~~taxpayer makes each employee at the previous location or locations~~  
36    ~~a written bona fide offer of employment at the new location.~~

37    ~~(2) The net increase in employees of a taxpayer shall be~~  
38    ~~determined as provided by this subdivision:~~

~~(A) The net increase in employees shall be determined by subtracting from the amount determined in subparagraph (C) the amount determined in subparagraph (B).~~

~~(B) The total number of employees employed in the state in the preceding taxable year by the taxpayer and by any trade or business acquired by the taxpayer during the current taxable year.~~

~~(C) The total number of employees employed in the state in the current taxable year by the taxpayer and by any trade or business acquired during the current taxable year.~~

~~(d) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.~~

~~SEC. 6. Section 23622.8 of the Revenue and Taxation Code is amended to read:~~

~~23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the manufacturing enhancement area. The credit shall be equal to the sum of each of the following:~~

~~(1) Fifty percent of the qualified wages in the first year of employment.~~

~~(2) Forty percent of the qualified wages in the second year of employment.~~

~~(3) Thirty percent of the qualified wages in the third year of employment.~~

~~(4) Twenty percent of the qualified wages in the fourth year of employment.~~

~~(5) Ten percent of the qualified wages in the fifth year of employment.~~

~~(b) For purposes of this section:~~

~~(1) "Qualified wages" means:~~

~~(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.~~

~~(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per taxable year.~~

~~(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences~~



1 employment with the qualified taxpayer. Reemployment in  
2 connection with any increase, including a regularly occurring  
3 seasonal increase, in the trade or business operations of the  
4 qualified taxpayer does not constitute commencement of  
5 employment for purposes of this section.

6 (D) ~~Qualified wages do not include any wages paid or incurred~~  
7 ~~by the qualified taxpayer on or after the manufacturing~~  
8 ~~enhancement area expiration date. However, wages paid or incurred~~  
9 ~~with respect to qualified employees who are employed by the~~  
10 ~~qualified taxpayer within the manufacturing enhancement area~~  
11 ~~within the 60-month period prior to the manufacturing enhancement~~  
12 ~~area expiration date shall continue to qualify for the credit under~~  
13 ~~this section after the manufacturing enhancement area expiration~~  
14 ~~date, in accordance with all provisions of this section applied as~~  
15 ~~if the manufacturing enhancement area designation were still in~~  
16 ~~existence and binding.~~

17 (2) ~~“Minimum wage” means the wage established by the~~  
18 ~~Industrial Welfare Commission as provided for in Chapter 1~~  
19 ~~(commencing with Section 1171) of Part 4 of Division 2 of the~~  
20 ~~Labor Code.~~

21 (3) ~~“Manufacturing enhancement area” means an area designated~~  
22 ~~pursuant to Section 7073.8 of the Government Code according to~~  
23 ~~the procedures of Chapter 12.8 (commencing with Section 7070)~~  
24 ~~of Division 7 of Title 1 of the Government Code.~~

25 (4) ~~“Manufacturing enhancement area expiration date” means~~  
26 ~~the date the manufacturing enhancement area designation expires,~~  
27 ~~is no longer binding, or becomes inoperative.~~

28 (5) ~~“Qualified disadvantaged individual” means an individual~~  
29 ~~who satisfies all of the following requirements:~~

30 (A) (i) ~~At least 90 percent of whose services for the qualified~~  
31 ~~taxpayer during the taxable year are directly related to the conduct~~  
32 ~~of the qualified taxpayer’s trade or business located in a~~  
33 ~~manufacturing enhancement area.~~

34 (ii) ~~Who performs at least 50 percent of his or her services for~~  
35 ~~the qualified taxpayer during the taxable year in the manufacturing~~  
36 ~~enhancement area.~~

37 (B) ~~Who is hired by the qualified taxpayer after the designation~~  
38 ~~of the area as a manufacturing enhancement area in which the~~  
39 ~~individual’s services were primarily performed.~~

~~(C) Who is any of the following immediately preceding the individual's commencement of employment with the qualified taxpayer:~~

~~(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) or its successor.~~

~~(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985, or its successor, as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.~~

~~(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, or its successor, whether or not this program is in effect.~~

~~(6) "Qualified taxpayer" means any corporation engaged in a trade or business within a manufacturing enhancement area designated pursuant to Section 7073.8 of the Government Code and that meets all of the following requirements:~~

~~(A) Is engaged in those lines of business described in Codes 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.~~

~~(B) At least 50 percent of the qualified taxpayer's workforce hired after the designation of the manufacturing enhancement area is composed of individuals who, at the time of hire, are residents of the county in which the manufacturing enhancement area is located.~~

~~(C) Of this percentage of local hires, at least 30 percent shall be qualified disadvantaged individuals.~~

~~(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.~~

~~(e) (1) For purposes of this section, all of the following apply:~~

~~(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single qualified taxpayer.~~

~~(B) The credit (if any) allowable by this section with respect to each member shall be determined by reference to its proportionate~~

1 ~~share of the expenses of the qualified wages giving rise to the~~  
2 ~~credit and shall be allocated in that manner.~~

3 ~~(C) Principles that apply in the case of controlled groups of~~  
4 ~~corporations, as specified in subdivision (d) of Section 23622.7,~~  
5 ~~shall apply with respect to determining employment.~~

6 ~~(2) If a qualified taxpayer acquires the major portion of a trade~~  
7 ~~or business of another employer (hereinafter in this paragraph~~  
8 ~~referred to as the “predecessor”) or the major portion of a separate~~  
9 ~~unit of a trade or business of a predecessor, then, for purposes of~~  
10 ~~applying this section (other than subdivision (d)) for any calendar~~  
11 ~~year ending after that acquisition, the employment relationship~~  
12 ~~between a qualified disadvantaged individual and a qualified~~  
13 ~~taxpayer shall not be treated as terminated if the qualified~~  
14 ~~disadvantaged individual continues to be employed in that trade~~  
15 ~~or business.~~

16 ~~(d) (1) (A) If the employment, other than seasonal employment,~~  
17 ~~of any qualified disadvantaged individual, with respect to whom~~  
18 ~~qualified wages are taken into account under subdivision (b) is~~  
19 ~~terminated by the qualified taxpayer at any time during the first~~  
20 ~~270 days of that employment (whether or not consecutive) or before~~  
21 ~~the close of the 270th calendar day after the day in which that~~  
22 ~~qualified disadvantaged individual completes 90 days of~~  
23 ~~employment with the qualified taxpayer, the tax imposed by this~~  
24 ~~part for the taxable year in which that employment is terminated~~  
25 ~~shall be increased by an amount equal to the credit allowed under~~  
26 ~~subdivision (a) for that taxable year and all prior taxable years~~  
27 ~~attributable to qualified wages paid or incurred with respect to that~~  
28 ~~qualified disadvantaged individual.~~

29 ~~(B) If the seasonal employment of any qualified disadvantaged~~  
30 ~~individual, with respect to whom qualified wages are taken into~~  
31 ~~account under subdivision (a) is not continued by the qualified~~  
32 ~~taxpayer for a period of 270 days of employment during the~~  
33 ~~60-month period beginning with the day the qualified~~  
34 ~~disadvantaged individual commences seasonal employment with~~  
35 ~~the qualified taxpayer, the tax imposed by this part, for the income~~  
36 ~~year that includes the 60th month following the month in which~~  
37 ~~the qualified disadvantaged individual commences seasonal~~  
38 ~~employment with the qualified taxpayer, shall be increased by an~~  
39 ~~amount equal to the credit allowed under subdivision (a) for that~~  
40 ~~taxable year and all prior taxable years attributable to qualified~~

1 wages paid or incurred with respect to that qualified disadvantaged  
2 individual.

3 ~~(2) (A) Subparagraph (A) of paragraph (1) does not apply to~~  
4 ~~any of the following:~~

5 ~~(i) A termination of employment of a qualified disadvantaged~~  
6 ~~individual who voluntarily leaves the employment of the qualified~~  
7 ~~taxpayer.~~

8 ~~(ii) A termination of employment of a qualified disadvantaged~~  
9 ~~individual who, before the close of the period referred to in~~  
10 ~~subparagraph (A) of paragraph (1), becomes disabled to perform~~  
11 ~~the services of that employment, unless that disability is removed~~  
12 ~~before the close of that period and the qualified taxpayer fails to~~  
13 ~~offer reemployment to that individual.~~

14 ~~(iii) A termination of employment of a qualified disadvantaged~~  
15 ~~individual, if it is determined that the termination was due to the~~  
16 ~~misconduct (as defined in Sections 1256-30 to 1256-43, inclusive,~~  
17 ~~of Title 22 of the California Code of Regulations) of that individual.~~

18 ~~(iv) A termination of employment of a qualified disadvantaged~~  
19 ~~individual due to a substantial reduction in the trade or business~~  
20 ~~operations of the qualified taxpayer.~~

21 ~~(v) A termination of employment of a qualified disadvantaged~~  
22 ~~individual, if that individual is replaced by other qualified~~  
23 ~~disadvantaged individuals so as to create a net increase in both the~~  
24 ~~number of employees and the hours of employment.~~

25 ~~(B) Subparagraph (B) of paragraph (1) shall not apply to any~~  
26 ~~of the following:~~

27 ~~(i) A failure to continue the seasonal employment of a qualified~~  
28 ~~disadvantaged individual who voluntarily fails to return to the~~  
29 ~~seasonal employment of the qualified taxpayer.~~

30 ~~(ii) A failure to continue the seasonal employment of a qualified~~  
31 ~~disadvantaged individual who, before the close of the period~~  
32 ~~referred to in subparagraph (B) of paragraph (1), becomes disabled~~  
33 ~~and unable to perform the services of that seasonal employment,~~  
34 ~~unless that disability is removed before the close of that period~~  
35 ~~and the qualified taxpayer fails to offer seasonal employment to~~  
36 ~~that qualified disadvantaged individual.~~

37 ~~(iii) A failure to continue the seasonal employment of a qualified~~  
38 ~~disadvantaged individual, if it is determined that the failure to~~  
39 ~~continue the seasonal employment was due to the misconduct (as~~  
40 ~~defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of~~

1 the California Code of Regulations) of that qualified disadvantaged  
2 individual.

3 (iv) ~~A failure to continue seasonal employment of a qualified~~  
4 ~~disadvantaged individual due to a substantial reduction in the~~  
5 ~~regular seasonal trade or business operations of the qualified~~  
6 ~~taxpayer.~~

7 (v) ~~A failure to continue the seasonal employment of a qualified~~  
8 ~~disadvantaged individual, if that qualified disadvantaged individual~~  
9 ~~is replaced by other qualified disadvantaged individuals so as to~~  
10 ~~create a net increase in both the number of seasonal employees~~  
11 ~~and the hours of seasonal employment.~~

12 (C) ~~For purposes of paragraph (1), the employment relationship~~  
13 ~~between the qualified taxpayer and a qualified disadvantaged~~  
14 ~~individual shall not be treated as terminated by either of the~~  
15 ~~following:~~

16 (i) ~~By a transaction to which Section 381(a) of the Internal~~  
17 ~~Revenue Code applies, if the qualified disadvantaged individual~~  
18 ~~continues to be employed by the acquiring corporation.~~

19 (ii) ~~By reason of a mere change in the form of conducting the~~  
20 ~~trade or business of the qualified taxpayer, if the qualified~~  
21 ~~disadvantaged individual continues to be employed in that trade~~  
22 ~~or business and the qualified taxpayer retains a substantial interest~~  
23 ~~in that trade or business.~~

24 (3) ~~Any increase in tax under paragraph (1) shall not be treated~~  
25 ~~as tax imposed by this part for purposes of determining the amount~~  
26 ~~of any credit allowable under this part.~~

27 (e) ~~The credit shall be reduced by the credit allowed under~~  
28 ~~Section 23621. The credit shall also be reduced by the federal~~  
29 ~~credit allowed under Section 51 of the Internal Revenue Code.~~

30 ~~In addition, any deduction otherwise allowed under this part for~~  
31 ~~the wages or salaries paid or incurred by the qualified taxpayer~~  
32 ~~upon which the credit is based shall be reduced by the amount of~~  
33 ~~the credit, prior to any reduction required by subdivision (f) or (g).~~

34 (f) ~~In the case where the credit otherwise allowed under this~~  
35 ~~section exceeds the “tax” for the taxable year, that portion of the~~  
36 ~~credit that exceeds the “tax” may be carried over and added to the~~  
37 ~~credit, if any, in succeeding years, until the credit is exhausted.~~  
38 ~~The credit shall be applied first to the earliest taxable years~~  
39 ~~possible.~~

~~(g) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributed to a manufacturing enhancement area determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.~~

~~(2) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the manufacturing enhancement area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the manufacturing enhancement area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).~~

~~(3) Income shall be apportioned to a manufacturing enhancement area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For the purposes of this paragraph:~~

~~(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the manufacturing enhancement area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.~~

~~(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the manufacturing enhancement area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.~~

~~(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (g).~~

~~(h) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be~~

1 allowed to the taxpayer under this part with respect to any wage  
2 consisting in whole or in part of those qualified wages:

3 (i) The qualified taxpayer shall do both of the following:

4 (1) Obtain from the Employment Development Department, as  
5 permitted by federal law, the local county or city Job Training  
6 Partnership Act administrative entity, the local county GAIN office  
7 or social services agency, or the local government administering  
8 the manufacturing enhancement area, a certification that provides  
9 that a qualified disadvantaged individual meets the eligibility  
10 requirements specified in paragraph (5) of subdivision (b). The  
11 Employment Development Department may provide preliminary  
12 screening and referral to a certifying agency. The Department of  
13 Housing and Community Development shall develop regulations  
14 governing the issuance of certificates pursuant to subdivision (d)  
15 of Section 7086 of the Government Code and shall develop forms  
16 for this purpose.

17 (2) Retain a copy of the certification and provide it upon request  
18 to the Franchise Tax Board.

19 (j) (1) Notwithstanding subdivision (a), if a qualified taxpayer  
20 relocated to a manufacturing enhancement area from within the  
21 state during any taxable year beginning on or after January 1, 2011,  
22 the qualified taxpayer shall be allowed a credit for the taxable year  
23 only with respect to qualified wages paid for each net increase in  
24 qualified employees, and only if the qualified taxpayer makes each  
25 employee at the previous location or locations a written bona fide  
26 offer of employment at the new location.

27 (2) The net increase in employees of a taxpayer shall be  
28 determined as provided by this subdivision:

29 (A) The net increase in employees shall be determined by  
30 subtracting from the amount determined in subparagraph (C) the  
31 amount determined in subparagraph (B):

32 (B) The total number of employees employed in the state in the  
33 preceding taxable year by the qualified taxpayer and by any trade  
34 or business acquired by the qualified taxpayer during the current  
35 taxable year.

36 (C) The total number of employees employed in the state in the  
37 current taxable year by the qualified taxpayer and by any trade or  
38 business acquired during the current taxable year.

39 SEC. 7. Section 23634 of the Revenue and Taxation Code is  
40 amended to read:

23634. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the “tax” (as defined by Section 23036) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) “Qualified wages” means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.



1     ~~(3) “Targeted tax area expiration date” means the date the~~  
2     ~~targeted tax area designation expires, is revoked, is no longer~~  
3     ~~binding, or becomes inoperative.~~

4     ~~(4) (A) “Qualified employee” means an individual who meets~~  
5     ~~all of the following requirements:~~

6         ~~(i) At least 90 percent of his or her services for the qualified~~  
7         ~~taxpayer during the taxable year are directly related to the conduct~~  
8         ~~of the qualified taxpayer’s trade or business located in a targeted~~  
9         ~~tax area.~~

10        ~~(ii) Performs at least 50 percent of his or her services for the~~  
11        ~~qualified taxpayer during the taxable year in a targeted tax area.~~

12        ~~(iii) Is hired by the qualified taxpayer after the date of original~~  
13        ~~designation of the area in which services were performed as a~~  
14        ~~targeted tax area.~~

15        ~~(iv) Is any of the following:~~

16           ~~(I) Immediately preceding the qualified employee’s~~  
17           ~~commencement of employment with the qualified taxpayer, was~~  
18           ~~a person eligible for services under the federal Job Training~~  
19           ~~Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,~~  
20           ~~who is receiving, or is eligible to receive, subsidized employment,~~  
21           ~~training, or services funded by the federal Job Training Partnership~~  
22           ~~Act, or its successor.~~

23           ~~(II) Immediately preceding the qualified employee’s~~  
24           ~~commencement of employment with the qualified taxpayer, was~~  
25           ~~a person eligible to be a voluntary or mandatory registrant under~~  
26           ~~the Greater Avenues for Independence Act of 1985 (GAIN)~~  
27           ~~provided for pursuant to Article 3.2 (commencing with Section~~  
28           ~~11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and~~  
29           ~~Institutions Code, or its successor.~~

30           ~~(III) Immediately preceding the qualified employee’s~~  
31           ~~commencement of employment with the qualified taxpayer, was~~  
32           ~~an economically disadvantaged individual 14 years of age or older.~~

33           ~~(IV) Immediately preceding the qualified employee’s~~  
34           ~~commencement of employment with the qualified taxpayer, was~~  
35           ~~a dislocated worker who meets any of the following:~~

36           ~~(ia) Has been terminated or laid off or who has received a notice~~  
37           ~~of termination or layoff from employment, is eligible for or has~~  
38           ~~exhausted entitlement to unemployment insurance benefits, and~~  
39           ~~is unlikely to return to his or her previous industry or occupation.~~

1     ~~(ib) Has been terminated or has received a notice of termination~~  
2     ~~of employment as a result of any permanent closure or any~~  
3     ~~substantial layoff at a plant, facility, or enterprise, including an~~  
4     ~~individual who has not received written notification but whose~~  
5     ~~employer has made a public announcement of the closure or layoff.~~

6     ~~(ic) Is long-term unemployed and has limited opportunities for~~  
7     ~~employment or reemployment in the same or a similar occupation~~  
8     ~~in the area in which the individual resides, including an individual~~  
9     ~~55 years of age or older who may have substantial barriers to~~  
10    ~~employment by reason of age.~~

11    ~~(id) Was self-employed (including farmers and ranchers) and~~  
12    ~~is unemployed as a result of general economic conditions in the~~  
13    ~~community in which he or she resides or because of natural~~  
14    ~~disasters.~~

15    ~~(ie) Was a civilian employee of the Department of Defense~~  
16    ~~employed at a military installation being closed or realigned under~~  
17    ~~the Defense Base Closure and Realignment Act of 1990.~~

18    ~~(if) Was an active member of the Armed Forces or National~~  
19    ~~Guard as of September 30, 1990, and was either involuntarily~~  
20    ~~separated or separated pursuant to a special benefits program.~~

21    ~~(ig) Is a seasonal or migrant worker who experiences chronic~~  
22    ~~seasonal unemployment and underemployment in the agriculture~~  
23    ~~industry, aggravated by continual advancements in technology and~~  
24    ~~mechanization.~~

25    ~~(ih) Has been terminated or laid off, or has received a notice of~~  
26    ~~termination or layoff, as a consequence of compliance with the~~  
27    ~~Clean Air Act.~~

28    ~~(V) Immediately preceding the qualified employee's~~  
29    ~~commencement of employment with the qualified taxpayer, was~~  
30    ~~a disabled individual who is eligible for or enrolled in, or has~~  
31    ~~completed a state rehabilitation plan or is a service-connected~~  
32    ~~disabled veteran, veteran of the Vietnam era, or veteran who is~~  
33    ~~recently separated from military service.~~

34    ~~(VI) Immediately preceding the qualified employee's~~  
35    ~~commencement of employment with the qualified taxpayer, was~~  
36    ~~an ex-offender. An individual shall be treated as convicted if he~~  
37    ~~or she was placed on probation by a state court without a finding~~  
38    ~~of guilt.~~

1     ~~(VII) Immediately preceding the qualified employee's~~  
2     ~~commencement of employment with the qualified taxpayer, was~~  
3     ~~a person eligible for or a recipient of any of the following:~~

4     ~~(ia) Federal Supplemental Security Income benefits.~~

5     ~~(ib) Aid to Families with Dependent Children.~~

6     ~~(ic) Food stamps.~~

7     ~~(id) State and local general assistance.~~

8     ~~(VIII) Immediately preceding the qualified employee's~~  
9     ~~commencement of employment with the qualified taxpayer, was~~  
10    ~~a member of a federally recognized Indian tribe, band, or other~~  
11    ~~group of Native American descent.~~

12    ~~(IX) Immediately preceding the qualified employee's~~  
13    ~~commencement of employment with the qualified taxpayer, was~~  
14    ~~a resident of a targeted tax area.~~

15    ~~(X) Immediately preceding the qualified employee's~~  
16    ~~commencement of employment with the taxpayer, was a member~~  
17    ~~of a targeted group, as defined in Section 51(d) of the Internal~~  
18    ~~Revenue Code, or its successor.~~

19    ~~(B) Priority for employment shall be provided to an individual~~  
20    ~~who is enrolled in a qualified program under the federal Job~~  
21    ~~Training Partnership Act or the Greater Avenues for Independence~~  
22    ~~Act of 1985 or who is eligible as a member of a targeted group~~  
23    ~~under the Work Opportunity Tax Credit (Section 51 of the Internal~~  
24    ~~Revenue Code), or its successor.~~

25    ~~(5) (A) "Qualified taxpayer" means a person or entity that meets~~  
26    ~~both of the following:~~

27    ~~(i) Is engaged in a trade or business within a targeted tax area~~  
28    ~~designated pursuant to Chapter 12.93 (commencing with Section~~  
29    ~~7097) of Division 7 of Title 1 of the Government Code.~~

30    ~~(ii) Is engaged in those lines of business described in Codes~~  
31    ~~2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,~~  
32    ~~inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive;~~  
33    ~~of the Standard Industrial Classification (SIC) Manual published~~  
34    ~~by the United States Office of Management and Budget, 1987~~  
35    ~~edition.~~

36    ~~(B) In the case of any passthrough entity, the determination of~~  
37    ~~whether a taxpayer is a qualified taxpayer under this section shall~~  
38    ~~be made at the entity level and any credit under this section or~~  
39    ~~Section 17053.34 shall be allowed to the passthrough entity and~~  
40    ~~passed through to the partners or shareholders in accordance with~~

1 applicable provisions of this part or Part 10 (commencing with  
2 Section 17001). For purposes of this subparagraph, the term  
3 “passthrough entity” means any partnership or S corporation.

4 (6) “Seasonal employment” means employment by a qualified  
5 taxpayer that has regular and predictable substantial reductions in  
6 trade or business operations.

7 (e) If the qualified taxpayer is allowed a credit for qualified  
8 wages pursuant to this section, only one credit shall be allowed to  
9 the taxpayer under this part with respect to those qualified wages.

10 (d) The qualified taxpayer shall do both of the following:

11 (1) Obtain from the Employment Development Department, as  
12 permitted by federal law, the local county or city Job Training  
13 Partnership Act administrative entity, the local county GAIN office  
14 or social services agency, or the local government administering  
15 the targeted tax area, a certification that provides that a qualified  
16 employee meets the eligibility requirements specified in clause  
17 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The  
18 Employment Development Department may provide preliminary  
19 screening and referral to a certifying agency. The Department of  
20 Housing and Community Development shall develop regulations  
21 for the issuance of certificates pursuant to subdivision (g) of  
22 Section 7097 of the Government Code, and shall develop forms  
23 for this purpose.

24 (2) Retain a copy of the certification and provide it upon request  
25 to the Franchise Tax Board.

26 (e) (1) For purposes of this section:

27 (A) All employees of all corporations that are members of the  
28 same controlled group of corporations shall be treated as employed  
29 by a single taxpayer.

30 (B) The credit, if any, allowable by this section to each member  
31 shall be determined by reference to its proportionate share of the  
32 expense of the qualified wages giving rise to the credit, and shall  
33 be allocated in that manner.

34 (C) For purposes of this subdivision, “controlled group of  
35 corporations” means “controlled group of corporations” as defined  
36 in Section 1563(a) of the Internal Revenue Code, except that:

37 (i) “More than 50 percent” shall be substituted for “at least 80  
38 percent” each place it appears in Section 1563(a)(1) of the Internal  
39 Revenue Code.

1 ~~(ii) The determination shall be made without regard to~~  
2 ~~subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal~~  
3 ~~Revenue Code.~~

4 ~~(2) If an employer acquires the major portion of a trade or~~  
5 ~~business of another employer (hereinafter in this paragraph referred~~  
6 ~~to as the “predecessor”) or the major portion of a separate unit of~~  
7 ~~a trade or business of a predecessor, then, for purposes of applying~~  
8 ~~this section (other than subdivision (f)) for any calendar year ending~~  
9 ~~after that acquisition, the employment relationship between a~~  
10 ~~qualified employee and an employer shall not be treated as~~  
11 ~~terminated if the employee continues to be employed in that trade~~  
12 ~~or business.~~

13 ~~(f) (1) (A) If the employment, other than seasonal employment,~~  
14 ~~of any qualified employee with respect to whom qualified wages~~  
15 ~~are taken into account under subdivision (a) is terminated by the~~  
16 ~~qualified taxpayer at any time during the first 270 days of that~~  
17 ~~employment (whether or not consecutive) or before the close of~~  
18 ~~the 270th calendar day after the day in which that employee~~  
19 ~~completes 90 days of employment with the qualified taxpayer, the~~  
20 ~~tax imposed by this part for the taxable year in which that~~  
21 ~~employment is terminated shall be increased by an amount equal~~  
22 ~~to the credit allowed under subdivision (a) for that taxable year~~  
23 ~~and all prior taxable years attributable to qualified wages paid or~~  
24 ~~incurred with respect to that employee.~~

25 ~~(B) If the seasonal employment of any qualified employee, with~~  
26 ~~respect to whom qualified wages are taken into account under~~  
27 ~~subdivision (a) is not continued by the qualified taxpayer for a~~  
28 ~~period of 270 days of employment during the 60-month period~~  
29 ~~beginning with the day the qualified employee commences seasonal~~  
30 ~~employment with the qualified taxpayer, the tax imposed by this~~  
31 ~~part, for the taxable year that includes the 60th month following~~  
32 ~~the month in which the qualified employee commences seasonal~~  
33 ~~employment with the qualified taxpayer, shall be increased by an~~  
34 ~~amount equal to the credit allowed under subdivision (a) for that~~  
35 ~~taxable year and all prior taxable years attributable to qualified~~  
36 ~~wages paid or incurred with respect to that qualified employee.~~

37 ~~(2) (A) Subparagraph (A) of paragraph (1) shall not apply to~~  
38 ~~any of the following:~~

39 ~~(i) A termination of employment of a qualified employee who~~  
40 ~~voluntarily leaves the employment of the qualified taxpayer.~~

1     (ii) ~~A termination of employment of a qualified employee who,~~  
2 ~~before the close of the period referred to in subparagraph (A) of~~  
3 ~~paragraph (1), becomes disabled and unable to perform the services~~  
4 ~~of that employment, unless that disability is removed before the~~  
5 ~~close of that period and the qualified taxpayer fails to offer~~  
6 ~~reemployment to that employee.~~

7     (iii) ~~A termination of employment of a qualified employee, if~~  
8 ~~it is determined that the termination was due to the misconduct (as~~  
9 ~~defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of~~  
10 ~~the California Code of Regulations) of that employee.~~

11     (iv) ~~A termination of employment of a qualified employee due~~  
12 ~~to a substantial reduction in the trade or business operations of the~~  
13 ~~taxpayer.~~

14     (v) ~~A termination of employment of a qualified employee, if~~  
15 ~~that employee is replaced by other qualified employees so as to~~  
16 ~~create a net increase in both the number of employees and the~~  
17 ~~hours of employment.~~

18     (B) ~~Subparagraph (B) of paragraph (1) shall not apply to any~~  
19 ~~of the following:~~

20     (i) ~~A failure to continue the seasonal employment of a qualified~~  
21 ~~employee who voluntarily fails to return to the seasonal~~  
22 ~~employment of the qualified taxpayer.~~

23     (ii) ~~A failure to continue the seasonal employment of a qualified~~  
24 ~~employee who, before the close of the period referred to in~~  
25 ~~subparagraph (B) of paragraph (1), becomes disabled and unable~~  
26 ~~to perform the services of that seasonal employment, unless that~~  
27 ~~disability is removed before the close of that period and the~~  
28 ~~qualified taxpayer fails to offer seasonal employment to that~~  
29 ~~qualified employee.~~

30     (iii) ~~A failure to continue the seasonal employment of a qualified~~  
31 ~~employee, if it is determined that the failure to continue the~~  
32 ~~seasonal employment was due to the misconduct (as defined in~~  
33 ~~Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California~~  
34 ~~Code of Regulations) of that qualified employee.~~

35     (iv) ~~A failure to continue seasonal employment of a qualified~~  
36 ~~employee due to a substantial reduction in the regular seasonal~~  
37 ~~trade or business operations of the qualified taxpayer.~~

38     (v) ~~A failure to continue the seasonal employment of a qualified~~  
39 ~~employee, if that qualified employee is replaced by other qualified~~

1 employees so as to create a net increase in both the number of  
2 seasonal employees and the hours of seasonal employment.

3 (C) For purposes of paragraph (1), the employment relationship  
4 between the qualified taxpayer and a qualified employee shall not  
5 be treated as terminated by either of the following:

6 (i) By a transaction to which Section 381(a) of the Internal  
7 Revenue Code applies, if the qualified employee continues to be  
8 employed by the acquiring corporation.

9 (ii) By reason of a mere change in the form of conducting the  
10 trade or business of the qualified taxpayer, if the qualified  
11 employee continues to be employed in that trade or business and  
12 the qualified taxpayer retains a substantial interest in that trade or  
13 business.

14 (3) Any increase in tax under paragraph (1) shall not be treated  
15 as tax imposed by this part for purposes of determining the amount  
16 of any credit allowable under this part.

17 (g) Rules similar to the rules provided in Sections 46(e) and (h)  
18 of the Internal Revenue Code shall apply to both of the following:

19 (1) An organization to which Section 593 of the Internal  
20 Revenue Code applies.

21 (2) A regulated investment company or a real estate investment  
22 trust subject to taxation under this part.

23 (h) For purposes of this section, “targeted tax area” means an  
24 area designated pursuant to Chapter 12.93 (commencing with  
25 Section 7097) of Division 7 of Title 1 of the Government Code.

26 (i) In the case where the credit otherwise allowed under this  
27 section exceeds the “tax” for the taxable year, that portion of the  
28 credit that exceeds the “tax” may be carried over and added to the  
29 credit, if any, in succeeding taxable years, until the credit is  
30 exhausted. The credit shall be applied first to the earliest taxable  
31 years possible.

32 (j) (1) The amount of the credit otherwise allowed under this  
33 section and Section 23633, including any credit carryover from  
34 prior years, that may reduce the “tax” for the taxable year shall  
35 not exceed the amount of tax that would be imposed on the  
36 qualified taxpayer’s business income attributable to the targeted  
37 tax area determined as if that attributable income represented all  
38 of the income of the qualified taxpayer subject to tax under this  
39 part.

~~(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).~~

~~(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:~~

~~(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.~~

~~(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.~~

~~(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h).~~

~~(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area designation has expired or been revoked, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.~~

~~(k) (1) Notwithstanding subdivision (a), if a qualified taxpayer relocated to a targeted tax area from within the state during any taxable year beginning on or after January 1, 2011, the qualified taxpayer shall be allowed a credit for the taxable year only with respect to qualified wages paid for each net increase in qualified employees, and only if the qualified taxpayer makes each employee~~



1 at the previous location or locations a written bona fide offer of  
2 employment at the new location.

3 (2) The net increase in employees of a qualified taxpayer shall  
4 be determined as provided by this subdivision:

5 (A) The net increase in employees shall be determined by  
6 subtracting from the amount determined in subparagraph (C) the  
7 amount determined in subparagraph (B):

8 (B) The total number of employees employed in the state in the  
9 preceding taxable year by the qualified taxpayer and by any trade  
10 or business acquired by the qualified taxpayer during the current  
11 taxable year.

12 (C) The total number of employees employed in the state in the  
13 current taxable year by the qualified taxpayer and by any trade or  
14 business acquired during the current taxable year.

15 SEC. 8. Section 23646 of the Revenue and Taxation Code is  
16 amended to read:

17 23646. (a) For each taxable year beginning on or after January  
18 1, 1995, there shall be allowed as a credit against the "tax" (as  
19 defined in Section 23036) to a qualified taxpayer for hiring a  
20 qualified disadvantaged individual or a qualified displaced  
21 employee during the taxable year for employment in the LAMBRA.  
22 The credit shall be equal to the sum of each of the following:

23 (1) Fifty percent of the qualified wages in the first year of  
24 employment.

25 (2) Forty percent of the qualified wages in the second year of  
26 employment.

27 (3) Thirty percent of the qualified wages in the third year of  
28 employment.

29 (4) Twenty percent of the qualified wages in the fourth year of  
30 employment.

31 (5) Ten percent of the qualified wages in the fifth year of  
32 employment.

33 (b) For purposes of this section:

34 (1) "Qualified wages" means:

35 (A) That portion of wages paid or incurred by the employer  
36 during the taxable year to qualified disadvantaged individuals or  
37 qualified displaced employees that does not exceed 150 percent  
38 of the minimum wage.

39 (B) The total amount of qualified wages which may be taken  
40 into account for purposes of claiming the credit allowed under this

1 ~~section shall not exceed two million dollars (\$2,000,000) per~~  
2 ~~taxable year.~~

3 ~~(C) Wages received during the 60-month period beginning with~~  
4 ~~the first day the individual commences employment with the~~  
5 ~~taxpayer. Reemployment in connection with any increase, including~~  
6 ~~a regularly occurring seasonal increase, in the trade or business~~  
7 ~~operation of the qualified taxpayer does not constitute~~  
8 ~~commencement of employment for purposes of this section.~~

9 ~~(D) Qualified wages do not include any wages paid or incurred~~  
10 ~~by the qualified taxpayer on or after the LAMBRA expiration date.~~  
11 ~~However, wages paid or incurred with respect to qualified~~  
12 ~~disadvantaged individuals or qualified displaced employees who~~  
13 ~~are employed by the qualified taxpayer within the LAMBRA within~~  
14 ~~the 60-month period prior to the LAMBRA expiration date shall~~  
15 ~~continue to qualify for the credit under this section after the~~  
16 ~~LAMBRA expiration date, in accordance with all provisions of~~  
17 ~~this section applied as if the LAMBRA designation were still in~~  
18 ~~existence and binding.~~

19 ~~(2) “Minimum wage” means the wage established by the~~  
20 ~~Industrial Welfare Commission as provided for in Chapter 1~~  
21 ~~(commencing with Section 1171) of Part 4 of Division 2 of the~~  
22 ~~Labor Code.~~

23 ~~(3) “LAMBRA” means a local agency military base recovery~~  
24 ~~area designated in accordance with the provisions of Section 7114~~  
25 ~~of the Government Code.~~

26 ~~(4) “Qualified disadvantaged individual” means an individual~~  
27 ~~who satisfies all of the following requirements:~~

28 ~~(A) (i) At least 90 percent of whose services for the taxpayer~~  
29 ~~during the taxable year are directly related to the conduct of the~~  
30 ~~taxpayer’s trade or business located in a LAMBRA.~~

31 ~~(ii) Who performs at least 50 percent of his or her services for~~  
32 ~~the taxpayer during the taxable year in the LAMBRA.~~

33 ~~(B) Who is hired by the employer after the designation of the~~  
34 ~~area as a LAMBRA in which the individual’s services were~~  
35 ~~primarily performed.~~

36 ~~(C) Who is any of the following immediately preceding the~~  
37 ~~individual’s commencement of employment with the taxpayer:~~

38 ~~(i) An individual who has been determined eligible for services~~  
39 ~~under the federal Job Training Partnership Act (29 U.S.C. Sec.~~  
40 ~~1501 et seq.), or its successor.~~

1     ~~(ii) Any voluntary or mandatory registrant under the Greater~~  
2     ~~Avenues for Independence Act of 1985 provided for pursuant to~~  
3     ~~Article 3.2 (commencing with Section 11320) of Chapter 2 of Part~~  
4     ~~3 of Division 9 of the Welfare and Institutions Code.~~

5     ~~(iii) An economically disadvantaged individual age 16 years or~~  
6     ~~older.~~

7     ~~(iv) A dislocated worker who meets any of the following~~  
8     ~~conditions:~~

9     ~~(I) Has been terminated or laid off or who has received a notice~~  
10    ~~of termination or layoff from employment, is eligible for or has~~  
11    ~~exhausted entitlement to unemployment insurance benefits, and~~  
12    ~~is unlikely to return to his or her previous industry or occupation.~~

13    ~~(II) Has been terminated or has received a notice of termination~~  
14    ~~of employment as a result of any permanent closure or any~~  
15    ~~substantial layoff at a plant, facility, or enterprise, including an~~  
16    ~~individual who has not received written notification but whose~~  
17    ~~employer has made a public announcement of the closure or layoff.~~

18    ~~(III) Is long-term unemployed and has limited opportunities for~~  
19    ~~employment or reemployment in the same or a similar occupation~~  
20    ~~in the area in which the individual resides, including an individual~~  
21    ~~55 years of age or older who may have substantial barriers to~~  
22    ~~employment by reason of age.~~

23    ~~(IV) Was self-employed (including farmers and ranchers) and~~  
24    ~~is unemployed as a result of general economic conditions in the~~  
25    ~~community in which he or she resides or because of natural~~  
26    ~~disasters.~~

27    ~~(V) Was a civilian employee of the Department of Defense~~  
28    ~~employed at a military installation being closed or realigned under~~  
29    ~~the Defense Base Closure and Realignment Act of 1990.~~

30    ~~(VI) Was an active member of the Armed Forces or National~~  
31    ~~Guard as of September 30, 1990, and was either involuntarily~~  
32    ~~separated or separated pursuant to a special benefits program.~~

33    ~~(VII) Experiences chronic seasonal unemployment and~~  
34    ~~underemployment in the agriculture industry, aggravated by~~  
35    ~~continual advancements in technology and mechanization.~~

36    ~~(VIII) Has been terminated or laid off or has received a notice~~  
37    ~~of termination or layoff as a consequence of compliance with the~~  
38    ~~Clean Air Act.~~

39    ~~(v) An individual who is enrolled in or has completed a state~~  
40    ~~rehabilitation plan or is a service-connected disabled veteran,~~

- 1 ~~veteran of the Vietnam era, or veteran who is recently separated~~  
2 ~~from military service.~~
- 3 ~~(vi) An ex-offender. An individual shall be treated as convicted~~  
4 ~~if he or she was placed on probation by a state court without a~~  
5 ~~finding of guilty.~~
- 6 ~~(vii) A recipient of:~~
- 7 ~~(I) Federal Supplemental Security Income benefits.~~  
8 ~~(II) Aid to Families with Dependent Children.~~  
9 ~~(III) Food stamps.~~  
10 ~~(IV) State and local general assistance.~~
- 11 ~~(viii) Is a member of a federally recognized Indian tribe, band,~~  
12 ~~or other group of Native American descent.~~
- 13 ~~(5) "Qualified taxpayer" means a corporation that conducts a~~  
14 ~~trade or business within a LAMBRA and, for the first two taxable~~  
15 ~~years, has a net increase in jobs (defined as 2,000 paid hours per~~  
16 ~~employee per year) of one or more employees as determined below~~  
17 ~~in the LAMBRA.~~
- 18 ~~(A) The net increase in the number of jobs shall be determined~~  
19 ~~by subtracting the total number of full-time employees (defined~~  
20 ~~as 2,000 paid hours per employee per year) the taxpayer employed~~  
21 ~~in this state in the taxable year prior to commencing business~~  
22 ~~operations in the LAMBRA from the total number of full-time~~  
23 ~~employees the taxpayer employed in this state during the second~~  
24 ~~taxable year after commencing business operations in the~~  
25 ~~LAMBRA. For taxpayers who commence doing business in this~~  
26 ~~state with their LAMBRA business operation, the number of~~  
27 ~~employees for the taxable year prior to commencing business~~  
28 ~~operations in the LAMBRA shall be zero. If the taxpayer has a net~~  
29 ~~increase in jobs in the state, the credit shall be allowed only if one~~  
30 ~~or more full-time employees is employed within the LAMBRA.~~
- 31 ~~(B) The total number of employees employed in the LAMBRA~~  
32 ~~shall equal the sum of both of the following:~~
- 33 ~~(i) The total number of hours worked in the LAMBRA for the~~  
34 ~~taxpayer by employees (not to exceed 2,000 hours per employee)~~  
35 ~~who are paid an hourly wage divided by 2,000.~~
- 36 ~~(ii) The total number of months worked in the LAMBRA for~~  
37 ~~the taxpayer by employees who are salaried employees divided~~  
38 ~~by 12.~~
- 39 ~~(C) In the case of a qualified taxpayer that first commences~~  
40 ~~doing business in the LAMBRA during the taxable year, for~~

1 purposes of clauses (i) and (ii), respectively, of subparagraph (B)  
2 the divisors “2,000” and “12” shall be multiplied by a fraction, the  
3 numerator of which is the number of months of the taxable year  
4 that the taxpayer was doing business in the LAMBRA and the  
5 denominator of which is 12.

6 (6) “Qualified displaced employee” means an individual who  
7 satisfies all of the following requirements:

8 (A) Any civilian or military employee of a base or former base  
9 that has been displaced as a result of a federal base closure act.

10 (B) (i) At least 90 percent of whose services for the taxpayer  
11 during the taxable year are directly related to the conduct of the  
12 taxpayer’s trade or business located in a LAMBRA.

13 (ii) Who performs at least 50 percent of his or her services for  
14 the taxpayer during the taxable year in a LAMBRA.

15 (C) Who is hired by the employer after the designation of the  
16 area in which services were performed as a LAMBRA.

17 (7) “Seasonal employment” means employment by a qualified  
18 taxpayer that has regular and predictable substantial reductions in  
19 trade or business operations.

20 (8) “LAMBRA expiration date” means the date the LAMBRA  
21 designation expires, is no longer binding, or becomes inoperative.

22 (e) For qualified disadvantaged individuals or qualified displaced  
23 employees hired on or after January 1, 2001, the taxpayer shall do  
24 both of the following:

25 (1) Obtain from the Employment Development Department, as  
26 permitted by federal law, the administrative entity of the local  
27 county or city for the federal Job Training Partnership Act, or its  
28 successor, the local county GAIN office or social services agency,  
29 or the local government administering the LAMBRA, a  
30 certification that provides that a qualified disadvantaged individual  
31 or qualified displaced employee meets the eligibility requirements  
32 specified in subparagraph (C) of paragraph (4) of subdivision (b)  
33 or subparagraph (A) of paragraph (6) of subdivision (b). The  
34 Employment Development Department may provide preliminary  
35 screening and referral to a certifying agency. The Department of  
36 Housing and Community Development shall develop regulations  
37 governing the issuance of certificates pursuant to Section 7114.2  
38 of the Government Code and shall develop forms for this purpose.

39 (2) Retain a copy of the certification and provide it upon request  
40 to the Franchise Tax Board.

~~(d) (1) For purposes of this section, both of the following apply:~~

~~(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single employer.~~

~~(B) The credit (if any) allowable by this section to each member shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.~~

~~(2) For purposes of this subdivision, “controlled group of corporations” has the meaning given to that term by Section 1563(a) of the Internal Revenue Code, except that both of the following apply:~~

~~(A) “More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563(a)(1) of the Internal Revenue Code.~~

~~(B) The determination shall be made without regard to Section 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue Code.~~

~~(3) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.~~

~~(e) (1) (A) If the employment of any employee, other than seasonal employment, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.~~

~~(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified~~

1 taxpayer for a period of 270 days of employment during the  
2 60-month period beginning with the day the qualified  
3 disadvantaged individual commences seasonal employment with  
4 the qualified taxpayer, the tax imposed by this part, for the taxable  
5 year that includes the 60th month following the month in which  
6 the qualified disadvantaged individual commences seasonal  
7 employment with the qualified taxpayer, shall be increased by an  
8 amount equal to the credit allowed under subdivision (a) for that  
9 taxable year and all prior taxable years attributable to qualified  
10 wages paid or incurred with respect to that qualified disadvantaged  
11 individual.

12 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
13 any of the following:

14 (i) A termination of employment of an employee who voluntarily  
15 leaves the employment of the taxpayer.

16 (ii) A termination of employment of an individual who, before  
17 the close of the period referred to in paragraph (1), becomes  
18 disabled to perform the services of that employment, unless that  
19 disability is removed before the close of that period and the  
20 taxpayer fails to offer reemployment to that individual.

21 (iii) A termination of employment of an individual, if it is  
22 determined that the termination was due to the misconduct (as  
23 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
24 the California Code of Regulations) of that individual.

25 (iv) A termination of employment of an individual due to a  
26 substantial reduction in the trade or business operations of the  
27 taxpayer.

28 (v) A termination of employment of an individual, if that  
29 individual is replaced by other qualified employees so as to create  
30 a net increase in both the number of employees and the hours of  
31 employment.

32 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
33 of the following:

34 (i) A failure to continue the seasonal employment of a qualified  
35 disadvantaged individual who voluntarily fails to return to the  
36 seasonal employment of the qualified taxpayer.

37 (ii) A failure to continue the seasonal employment of a qualified  
38 disadvantaged individual who, before the close of the period  
39 referred to in subparagraph (B) of paragraph (1), becomes disabled  
40 and unable to perform the services of that seasonal employment,

1 unless that disability is removed before the close of that period  
2 and the qualified taxpayer fails to offer seasonal employment to  
3 that qualified disadvantaged individual.

4 (iii) A failure to continue the seasonal employment of a qualified  
5 disadvantaged individual, if it is determined that the failure to  
6 continue the seasonal employment was due to the misconduct (as  
7 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
8 the California Code of Regulations) of that individual.

9 (iv) A failure to continue seasonal employment of a qualified  
10 disadvantaged individual due to a substantial reduction in the  
11 regular seasonal trade or business operations of the qualified  
12 taxpayer.

13 (v) A failure to continue the seasonal employment of a qualified  
14 disadvantaged individual, if that individual is replaced by other  
15 qualified disadvantaged individuals so as to create a net increase  
16 in both the number of seasonal employees and the hours of seasonal  
17 employment.

18 (C) For purposes of paragraph (1), the employment relationship  
19 between the taxpayer and an employee shall not be treated as  
20 terminated by either of the following:

21 (i) A transaction to which Section 381(a) of the Internal Revenue  
22 Code applies, if the employee continues to be employed by the  
23 acquiring corporation.

24 (ii) A mere change in the form of conducting the trade or  
25 business of the taxpayer, if the employee continues to be employed  
26 in that trade or business and the taxpayer retains a substantial  
27 interest in that trade or business.

28 (3) Any increase in tax under paragraph (1) shall not be treated  
29 as tax imposed by this part for purposes of determining the amount  
30 of any credit allowable under this part.

31 (4) At the close of the second taxable year, if the taxpayer has  
32 not increased the number of its employees as determined by  
33 paragraph (5) of subdivision (b), then the amount of the credit  
34 previously claimed shall be added to the taxpayer's tax for the  
35 taxpayer's second taxable year.

36 (f) In the case of an organization to which Section 593 of the  
37 Internal Revenue Code applies, and a regulated investment  
38 company or a real estate investment trust subject to taxation under  
39 this part, rules similar to the rules provided in Section 46(c) and  
40 Section 46(h) of the Internal Revenue Code shall apply.



1     ~~(g) The credit shall be reduced by the credit allowed under~~  
2     ~~Section 23621. The credit shall also be reduced by the federal~~  
3     ~~credit allowed under Section 51 of the Internal Revenue Code.~~

4     ~~In addition, any deduction otherwise allowed under this part for~~  
5     ~~the wages or salaries paid or incurred by the taxpayer upon which~~  
6     ~~the credit is based shall be reduced by the amount of the credit,~~  
7     ~~prior to any reduction required by subdivision (h) or (i).~~

8     ~~(h) In the case where the credit otherwise allowed under this~~  
9     ~~section exceeds the “tax” for the taxable year, that portion of the~~  
10    ~~credit that exceeds the “tax” may be carried over and added to the~~  
11    ~~credit, if any, in succeeding years, until the credit is exhausted.~~  
12    ~~The credit shall be applied first to the earliest taxable years~~  
13    ~~possible.~~

14    ~~(i) (1) The amount of credit otherwise allowed under this section~~  
15    ~~and Section 23645, including any prior year carryovers, that may~~  
16    ~~reduce the “tax” for the taxable year shall not exceed the amount~~  
17    ~~of tax that would be imposed on the taxpayer’s business income~~  
18    ~~attributed to a LAMBRA determined as if that attributed income~~  
19    ~~represented all of the income of the taxpayer subject to tax under~~  
20    ~~this part.~~

21    ~~(2) Attributable income shall be that portion of the taxpayer’s~~  
22    ~~California source business income that is apportioned to the~~  
23    ~~LAMBRA. For that purpose, the taxpayer’s business income that~~  
24    ~~is attributable to sources in this state first shall be determined in~~  
25    ~~accordance with Chapter 17 (commencing with Section 25101).~~  
26    ~~That business income shall be further apportioned to the LAMBRA~~  
27    ~~in accordance with Article 2 (commencing with Section 25120)~~  
28    ~~of Chapter 17, modified for purposes of this section in accordance~~  
29    ~~with paragraph (3).~~

30    ~~(3) Income shall be apportioned to a LAMBRA by multiplying~~  
31    ~~the total California business income of the taxpayer by a fraction,~~  
32    ~~the numerator of which is the property factor plus the payroll factor,~~  
33    ~~and the denominator of which is two. For purposes of this~~  
34    ~~paragraph:~~

35    ~~(A) The property factor is a fraction, the numerator of which is~~  
36    ~~the average value of the taxpayer’s real and tangible personal~~  
37    ~~property owned or rented and used in the LAMBRA during the~~  
38    ~~taxable year, and the denominator of which is the average value~~  
39    ~~of all the taxpayer’s real and tangible personal property owned or~~  
40    ~~rented and used in this state during the taxable year.~~

1     ~~(B) The payroll factor is a fraction, the numerator of which is~~  
2     ~~the total amount paid by the taxpayer in the LAMBRA during the~~  
3     ~~taxable year for compensation, and the denominator of which is~~  
4     ~~the total compensation paid by the taxpayer in this state during the~~  
5     ~~taxable year.~~

6     ~~(4) The portion of any credit remaining, if any, after application~~  
7     ~~of this subdivision, shall be carried over to succeeding taxable~~  
8     ~~years, as if it were an amount exceeding the “tax” for the taxable~~  
9     ~~year, as provided in subdivision (h).~~

10    ~~(j) If the taxpayer is allowed a credit pursuant to this section for~~  
11    ~~qualified wages paid or incurred, only one credit shall be allowed~~  
12    ~~to the taxpayer under this part with respect to any wage consisting~~  
13    ~~in whole or in part of those qualified wages.~~

14    ~~(k) (1) Notwithstanding subdivision (a), if a qualified taxpayer~~  
15    ~~relocated to a LAMBRA from within the state during any taxable~~  
16    ~~year beginning on or after January 1, 2011, the qualified taxpayer~~  
17    ~~shall be allowed a credit for the taxable year only with respect to~~  
18    ~~qualified wages paid for each net increase in qualified employees,~~  
19    ~~and only if the qualified taxpayer makes each employee at the~~  
20    ~~previous location or locations a written bona fide offer of~~  
21    ~~employment at the new location.~~

22    ~~(2) The net increase in employees of a qualified taxpayer shall~~  
23    ~~be determined as provided by this subdivision:~~

24    ~~(A) The net increase in employees shall be determined by~~  
25    ~~subtracting from the amount determined in subparagraph (C) the~~  
26    ~~amount determined in subparagraph (B):~~

27    ~~(B) The total number of employees employed in the state in the~~  
28    ~~preceeding taxable year by the qualified taxpayer and by any trade~~  
29    ~~or business acquired by the qualified taxpayer during the current~~  
30    ~~taxable year.~~

31    ~~(C) The total number of employees employed in the state in the~~  
32    ~~current taxable year by the qualified taxpayer and by any trade or~~  
33    ~~business acquired during the current taxable year.~~

34    ~~SEC. 9. This act provides for a tax levy within the meaning of~~  
35    ~~Article IV of the Constitution and shall go into immediate effect.~~